

# OFFICIAL RECORD OF PROCEEDINGS

Thursday, 29 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

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 ANDREW CHENG KAR-FOO

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

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

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.

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

THE HONOURABLE PAUL TSE WAI-CHUN, 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:**

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

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

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

THE HONOURABLE LEE WING-TAT

DR THE HONOURABLE LEUNG KA-LAU

**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

THE HONOURABLE MICHAEL SUEN MING-YEUNG, G.B.S., J.P.  
SECRETARY FOR EDUCATION

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

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

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

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

THE HONOURABLE EVA CHENG, G.B.S., J.P.  
SECRETARY FOR TRANSPORT AND HOUSING

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

PROF LAU SIU-KAI, J.P.  
HEAD, CENTRAL POLICY UNIT

DR KITTY POON KIT, J.P.  
UNDER SECRETARY FOR THE ENVIRONMENT

MR KENNETH CHEN WEI-ON, J.P.  
UNDER SECRETARY FOR EDUCATION

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

**CLERKS IN ATTENDANCE:**

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY  
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**BILLS****Committee Stage**

**CHAIRMAN** (in Cantonese): Good morning. This Council now resumes the Committee stage of the Appropriation Bill 2012.

**APPROPRIATION BILL 2012**

**CLERK** (in Cantonese): Head 160.

**MS CYD HO** (in Cantonese): Good morning, Chairman. I move that head 160 be reduced by \$2,127,600 in respect of subhead 000.

I have proposed this amendment to reduce the funding not because I wish to make a salary cut, but to delete a post. Therefore, this amendment is basically similar to proposals made in the Establishment Subcommittee against the creation of a post or to terminate a post. I am not doing what some Members from certain trade unions would say, that I love sacking people. Conversely, the person in question fired two persons as soon as he assumed office. They are NG Chi-sum and Robert CHOW Yung. In addition, the post concerned has been created for so many years, and the various bearers have converted many jobs in Radio and Television Hong Kong (RTHK) to contract terms and the staff concerned cannot become civil servants even after a long period of time. So for the sake of the interest of the staff, the post should be deleted.

RTHK used to be the icon for the freedoms of the press and of speech in Hong Kong. However, after 1997, the freedoms of the press and of speech have been subjected to increasing pressure. The people of Hong Kong used to believe that RTHK is the vanguard in defending the freedoms of the press and of speech, and so they have thrown unreserved weight behind maintaining the independence of RTHK. But under the prevailing macro climate in society, the kind of pressure exerted on the media is becoming greater and greater. We can see a drastic fall last year in the indices on the freedoms of the press and of speech. When I said in a Council meeting last time that the freedom of expression should be defended, the ranking had fallen already to the 34th position. Now, that is, in

2011-2012, the ranking has dropped to the 54th. This is a drop by 20 positions. As for the deterioration index, the higher the points the worse being the situation, it has surged from 10.75 points in 2010 to 17 points this year. It can be seen that it is indeed very difficult for Hong Kong people to uphold the freedoms of the press and of speech.

Against this background, the staff and front-line workers of RTHK are working very hard in their positions. Ever since 1997, RTHK has been subject to audits by the Audit Commission many times, and investigations conducted by the Independent Commission Against Corruption (ICAC) for many times. It was sued as well. RTHK was criticized by former Chief Executive TUNG Chee-hwa for having bad taste. Then the Government invited WONG Wah-kee to be the Director of Broadcasting (Director) and this Mr WONG used to work in the MediaCorp of Singapore and Singapore is notorious for its iron grip on the media. There were rumours that the popular RTHK programme Headlines would be lifted and the hosts would be replaced. However, the independence and autonomy of RTHK are maintained as a result of the collaboration of the civil society and this Council. It is unfortunate, however, to see that the efforts made over the years cannot prevent the destruction of this bastion of freedom from inside.

Last September, an Administrative Officer (AO) Roy TANG became the Director. He is not an experienced media worker in any sense. He does not have any working experience in the media industry at all. He has a law degree instead of a degree in communications. Nor does he have the capability and determination to defend the freedoms of the press and of speech. On the first day of his assuming office, the trade union in RTHK gave him a black carpet welcome. And he showed his tolerance and talked with union staff on the black carpet. But on the very first day he was in office, he let the public know that he was ignorant of the question of whether the programme The Tipping Point is a programme produced by Commercial Radio or RTHK. It is really ridiculous to have someone totally ignorant of broadcasting affairs to assume that position.

The post of the Director is admittedly a civil service position, but appointing an AO totally ignorant of broadcasting affairs to that position would give people an impression that the Director has a political mission of fixing RTHK instead of shouldering the responsibility of defending the freedoms of the press and of speech. The existence of this position is therefore not justified.

The people have very great expectations for the Director and they hope that he can act as the editor-in-chief just like the Directors before 1997 in that he should come out and defend RTHK should anything happen to it. It is obvious that the new Director does not have this conviction and the ability.

We can just look at the case of the CEO of the British Broadcasting Corporation (BBC), Mark THOMSON, who has just left the corporation. He joined BBC at the age of 22 as part of the production staff and stayed in BBC ever since. And in 2004, he assumed the post of the CEO. During the interim, he worked in Channel 4 for a number of years producing news bulletins. He has rich experience in working in the TV broadcasting industry for more than 30 years. His predecessor, Greg DYKE, worked in commercial TV stations including Channel 5 at a young age before finally joining the BBC board of directors. If we trace the performance of these CEOs of BBC, we can find that these CEOs have all been doing their best to defend its independence. One of them even resigned for being the first to disclose the incident of the death of an expert owing to Britain's investigations into the question of whether Iraq had any weapons of massive destruction. I do not think our Director would ever have this kind of acumen.

Roy TANG assumed office last September. In end November, NG Chi-sum and Robert CHOW were sacked. Actually, I do not think this AO would ever take the initiative to do this. As I said just now, it is like the bastion has crumbled from inside. In less than a week after this Mr TANG had assumed office, the RTHK management submitted a proposal which was allegedly to have brewed for years, from bottom up. It was said that the programme had to be revamped and this was to be done, with the hosts NG Chi-sum and Robert CHOW dumped in the process. This is part of the scheme.

Of course, the AOs knew all along it was the Government's wish that RTHK should be fixed and it was a wonderful opportunity when this proposal came from the management and staff of RTHK. Of course, he was only too happy to oblige. RTHK has changed thereafter. It is no longer a bastion of the freedom of speech in which the people of Hong Kong trust so much. The political task is now finished. So speaking from any high-level or practical perspective, there is no need to retain this post.



Now, there are two kinds of tasks that RTHK should handle. First, broadcasting affairs, and these are the responsibility of an Assistant Director. Second, administrative affairs, and these include work regarding the new Broadcasting House and handling the large number of archives like video tapes, audio tapes and photographs handed down from the past. This is work in managing the historical records. But such kind of work is being undertaken by an Assistant Director in charge of administrative affairs. So the only kind of work left for the Director and which cannot be replaced is to have meetings with the Board of Advisors which is above RTHK and under which RTHK is supervised. But we oppose this Board of Advisors which is like a supreme organization above RTHK because this Board can meddle with the internal operation of RTHK. Therefore, besides deleting the post of the Director of Broadcasting, this Board of Advisors which can interfere with the affairs of RTHK should also be deleted.

Since NG Chi-sum and Robert CHOW were removed in end November last year, changes have been made in RTHK to remove the angles and points, so to speak. The programmes which used to be platforms for Hong Kong people to air their views have become free-talk and free fall time slots where people air their views but not in a focused manner and no discussion can be held. Actually, there were plans to do that when WONG Wah-kee was the Director, but they were dropped when they came to light too early and there was too much of a rebound in the public. WONG Wah-kee used to work in Singapore's MediaCorp and he was used to the media being kept under tight government control. It is really heartbreaking to know that something which WONG did not dare to do is now submitted as a proposal by the RTHK management from the bottom up.

Actually, most of the RTHK staff still cherish their mission of defending the independence and autonomy in editing and reporting as well as the freedoms of the press and of speech. We will continue to give them our full support. But we do not find acceptable the move made by the RTHK management to propose the axing of NG Chi-sum and Robert CHOW in this way, regardless of whether they are doing this to further their own interest, or that they do not understand the situation well enough or have made a misjudgment of it. This is unacceptable. Their move has eroded our confidence in their pledge to uphold the freedoms of the press and speech.

One of the reasons why these two commentators are axed is that the line taken by RTHK over the past 10 years has been wrong and it is now said that the situation should be rectified by turning back. We were shocked to hear this excuse. If the line over the past 10 years were wrong, then was the trust placed by Hong Kong people in RTHK simply misplaced?

The RTHK management has advanced another reason from a pragmatic perspective, that is, to permit career advancement of the young people. So the senior journalists have to make way for them. But it must be remembered that both young and well-experienced journalists can exist side by side and they are not mutually exclusive. Many media corporations regard senior commentators as their treasure because these people have experienced the great events in history by covering them personally. The experience they have accumulated helps the building of a view on history in them which gives them the acumen to make insightful and accurate comments. So the media corporations will not easily dump this kind of experienced commentators. Like the case of an experienced reporter called Andy ROONEY from the CBS. Born in 1919, he began his career as a reporter at the age of 22. He had covered the Second World War first hand and visited the concentration camps where the Jews were slaughtered. In 1972, he began to host the programme 60 Minutes Plus, and some controversies built up around him. For example, he opposed racial segregation and once he was arrested for sitting in seats in the rear part of a bus designated for coloured people. He had also caused huge uproars because of the comments he made. For example, he spoke on the evils of alcoholism, smoking and excessive eating, saying that these would shorten people's life expectancy. At that time, people did not have a deep understanding of these issues and he was suspended from work for three months. The viewing rates for the programme dropped instantly by 20%, and he was reinstated soon afterwards.

It is never a contradiction for the media to employ some veteran commentators while also trying to groom young people. The two can co-exist. There are many hours of simulcasting in RTHK every day. From 1 am to 6 am, Radio 1 will join Radio 2 for simulcasting during these five hours. Likewise, Radio 3 simulcasts with Radio 4 for some period of the day, too. As for daytime, there are programmes like the two-hour programme "In the New Millennium" and the two-and-a-half-hour programme "Free Phone". Why can these programmes not be hosted by some veteran commentators together with some young persons? Why must the veterans be removed? Since this proposal

is exactly what the Government has wanted, it was implemented at once without any revisions made or anything done by the AO. Since there is no more political task for the AO because it is already finished, then there is no need to retain that post with an amount of \$2.12 million set aside for it every year. Moreover, if this AO continues to stay in RTHK, he will only (*The buzzer sounded*) make RTHK become more of a government mouthpiece and a propaganda machine for the officials.

President, freedoms and rights cannot protect themselves and they have to be protected by each one of us at our own initiative. If everyone makes some compromise which may be seen as trivial and does not matter so much, freedom as a whole will slowly be eaten away and the bastion will crumble one day because the foundation is being eroded slowly. When everyone thinks that there is no harm in making small compromises and as they do so, our freedom of speech will crumble in no time, and it will be too late.

Thank you, Chairman.

**Ms Cyd HO moved the following motion:**

"RESOLVED that head 160 be reduced by \$2,127,600 in respect of subhead 000."

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

(No Member indicated a wish to speak)

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Chairman, Ms Cyd HO has proposed an amendment to reduce head 160 by \$2,127,600 in respect of subhead 000, that is, the operating expenditure for Radio and Television Hong Kong (RTHK), to delete the post of the Director of Broadcasting (Director). We consider that this amendment will seriously affect the day-to-day operation of RTHK and its development. I therefore implore Members to vote against this amendment.

RTHK is the public service broadcaster (PSB) in Hong Kong. The Director is the department head for RTHK and his main duties include the following:

- (1) provide leadership for RTHK in its fulfilment of its public purposes and mission and to ensure compliance with the Charter of Radio Television Hong Kong (Charter);
- (2) as the editor-in-chief of RTHK, ensure that a system of editorial control in accordance with RTHK's Producers' Guidelines is in place to provide accurate, impartial and objective news, public affairs and general programming that inform, educate and entertain the public; and
- (3) undertake planning for new developments of RTHK as a PSB and manage RTHK for the delivery of radio and television services, education television for schools as well as services related to the new media.

As evident in the abovementioned duties, the Director is not only responsible for providing leadership in the day-to-day management of RTHK and undertaking planning for its future development, he is also the editor-in-chief of RTHK. From this, it can be seen that the post of the Director is vitally important to RTHK.

In addition, to fulfil its mission of being the PSB in Hong Kong, RTHK will in the next few years introduce a number of new development projects, including the launching of digital audio broadcasting and community-involved broadcasting service, planning for the introduction of digital terrestrial television broadcasting service, planning for the building of a new Broadcasting House in Tseung Kwan O and building up a digital media asset management system, and so on. The work in relation to the planning and launching of the said development projects and initiatives is extremely heavy and challenging. RTHK has already entered a new stage of development and at this critical moment, the leadership of the Director is badly needed to prepare RTHK to take on the challenges ahead and steer RTHK in its introduction of various new projects for the delivery of quality public broadcasting services to the public.

Ms Cyd HO has mentioned earlier the appointment by the Government in last September of an Administrative Officer (AO) as the Director. As a matter of fact, we have given a detailed account to the Legislative Council Panel on Information Technology and Broadcasting of the results of the open recruitment held between end 2010 and mid-2011 to fill the vacant post of the Director. I wish to emphasize two points here. First, the Government has the greatest sincerity in seeking the most suitable candidate to fill the post of the Director by way of open recruitment and it has put in its best efforts in the endeavour. The fact that a suitable candidate was not identified in the last round of open recruitment was not the result we expected. Since the open recruitment exercise was not successful, we decided to appoint an experienced AO to assume the post. I wish to stress that all along the Government has endeavoured to groom talents within RTHK to fill the post and there is no intention on our part to normalize this arrangement of appointing an officer from another grade to lead RTHK. Second, we will continue with grooming talents within RTHK to fill vacancies in the management through the well-established mechanism in place. With respect to the succession arrangements in the management of RTHK, especially positions at the directorate level, we have in the past few months held promotion boards for the posts of Deputy Director, Assistant Director and Controller. These selection exercises are meant to address the needs of enhancing operation and expanding the scope of service delivery. With respect to recruitment, RTHK resumed in March 2011 the recruitment of civil servants for various grades. It is expected that the relevant work will complete in the next few months. RTHK will continue to fill its vacancies arising from natural wastage and institutional development through its established recruitment and promotion procedures. One of the highlights of the work of the incumbent Director is to ensure that the related manpower planning can be fully put into practice.

Ms HO has commented earlier that the Director has been unable to uphold the editorial independence of RTHK and she therefore suggests that the post should be deleted. I wish to emphasize that we have all along attached great importance to the editorial independence of RTHK and we respect it. I do not know if Ms HO has the chance to read the Charter carefully. Part C of the Charter is on Editorial Independence and section 6 clearly states that RTHK is editorially independent. Section 7 also states clearly that RTHK will adhere to the following editorial principles:

- (a) be accurate and authoritative in the information that it disseminates;
- (b) be impartial in the views it reflects, and even-handed with all those who seek to express their views via the public service broadcasting platform;
- (c) be immune from commercial, political and/or other influences; and
- (d) uphold the highest professional standards of journalism.

Therefore, if we read the Charter, we will find that it is clearly stipulated that RTHK is editorially independent and we will defend the freedom of speech. As the head and editor-in-chief of RTHK and irrespective of his or her background, the Director will act steadfastly according to the Charter and RTHK's Producers' Guidelines, as well as adhering to the principle of editorial independence. Since assuming office, the incumbent Director has been taking the initiative to keep in touch with colleagues at various grades in RTHK to understand their aspirations. He has also assured RTHK staff that he will adhere to the Charter and uphold the position of RTHK as the PSB in Hong Kong in the discharge of his duties as the Director.

Ms Cyd HO has also mentioned earlier at great lengths the new format adopted by RTHK for its phone-in programmes since this January. The Director gave a detailed account of the programming change in a meeting of the Panel on Information Technology and Broadcasting held in last December. I have to stress here that the changes made in programme content and hosts are areas in programming changes that RTHK should decide on its own. I will therefore not make any comments here. It is also my view that Members should not interfere with the internal operation of RTHK.

Ms HO has also mentioned the establishment of RTHK Board of Advisors. As a matter of fact, the Board will not interfere with RTHK's editorial independence. I wish to stress that the Board is only an advisory committee, responsible for giving advice to the Director on services delivered by RTHK. In this connection, I wish to invite Ms HO to look at section 15 of the Charter where it is stated clearly that the Board is advisory in nature. It has no executive power. The ultimate editorial responsibility for RTHK rests with the Director.

The functions of the Board are listed clearly in the Charter and there is no question of it interfering with the editorial independence of RTHK.

The Board has all along emphasized its transparency. Since its establishment in September 2010, the agenda, discussion papers, minutes of meetings and annual reports of the Board have all been uploaded onto the RTHK website, so that members of the public can gain an understanding of the Board's work.

Since Ms HO in her speech earlier has raised questions on various areas of the operation of RTHK, I hope to give Members some idea of the background concerned so that they can have a better idea of the developments and work of RTHK in the future.

In September 2009 the Government decided that RTHK should take up the mission of being the PSB in Hong Kong. I wish to add some comments here on such important matters as the public purposes and mission of RTHK, the duties of the Director, the Board and their relationship with RTHK. This is meant to show clearly the vital role played by the Director as the department head and editor-in-chief of RTHK and in RTHK's development into a PSB.

RTHK is the PSB in Hong Kong and its prime duty is to provide to Hong Kong people unique, quality and diversified radio, television and new media services in fields of news and public affairs, the arts, culture and education in the service of viewers and listeners at large as well as minority interest groups. RTHK is completely editorially independent.

RTHK's mission is to provide Hong Kong people editorially independent, professional and quality radio, television and new media services. As the PSB in Hong Kong, RTHK has to fulfil the following purposes:

- (a) sustain citizenship and civil society. This involves (i) promoting understanding of our community, our nation and the world through accurate and impartial news, information, perspectives and analyses; (ii) promoting understanding of the concept of "one country, two systems" and its implementation in Hong Kong; and (iii) engendering a sense of citizenship and national identity through

programmes that contribute to the understanding of our community and nation;

- (b) provide an open platform for the free exchange of views without fear or favour. This involves specifically the provision of a wide range of programmes for public participation and exchange of views, and provision of a platform to support and facilitate community participation in broadcasting, including the administration of a Community Broadcasting Involvement Fund;
- (c) encourage social inclusion and pluralism. This involves the provision of programmes with diversity of programming coverage, universality of reach and sensitivity to the pluralistic nature of Hong Kong and the world. The objective is to enhance public understanding and acceptance of the cultural, linguistic, religious and ethnic diversity both in the local community and beyond;
- (d) promote education and learning. This specifically involves stimulating interest in a wide range of subjects, and providing information and resources to facilitate lifelong learning at all levels and for all ages; and
- (e) stimulate creativity and excellence to enrich the multi-cultural life of Hong Kong people. This specifically involves the production, commission and acquisition of distinctive and original content for public broadcast. There should be active promotion of public interest, engagement and participation in cultural activities, and its programming and other corporate policies and practices should foster creativity and nurture talent.

President, RTHK is editorially independent and will adhere to the following editorial principles:

- (a) be accurate and authoritative in the information that it disseminates;
- (b) be impartial in the views it reflects, and even-handed with all those who seek to express their views via the public service broadcasting platform;



- (c) as I have just said, be immune from commercial, political and/or other influences; and
- (d) uphold the highest professional standards of journalism.

Under the Charter drawn up in 2009, the Director as the editor-in-chief is responsible for ensuring that a system of editorial control in accordance with RTHK's Producers' Guidelines is in place to provide accurate, impartial and objective news, public affairs and general programming that inform, educate and entertain the public.

In addition, the Director has many other duties and he will be responsible to the Secretary for Commerce and Economic Development for:

- (a) managing the activities in each programme area on a day-to-day basis;
- (b) ensuring the provision and establishment of a cost-effective organization with appropriate staffing and other necessary resources allocated for the efficient delivery of public purposes and mission;
- (c) ensuring the delivery of the performance targets as agreed with the Secretary for each programme area or activity through appropriate delegation as necessary;
- (d) reviewing quarterly with the Secretary progress in achieving these targets and implementing any resulting actions required;
- (e) reviewing annually, at a set time, with the Secretary the achievement of targets, and using this as a basis for developing objectives and targets for the next 12 months;
- (f) improving in-house systems and structures that will maximize value and effectiveness of available resources and ensuring compliance with all applicable government rules and regulations;
- (g) putting in place an effective mechanism to comply with the relevant codes of practice on programming standards issued by the Broadcasting Authority;

- (h) putting in place an effective mechanism to deal with public complaints and setting up appropriate channels to receive public views and comments; and
- (i) accounting for all matters relating to the operation and management of RTHK.

Therefore, Ms HO, from the large number of duties of the Director which I have just read out from the Charter, it can be seen that his work is very important.

In addition, the Chief Executive appointed in August 2010 a broad-based Board of Advisors to advise the Director on the services of RTHK. The Board has the following functions: advising the Director on all matters pertaining to editorial principles, programming standards and quality of RTHK programming; receiving reports on complaints against editorial principles, programming standards and quality of RTHK programming; receiving reports of public opinion surveys regularly conducted by RTHK to track how well RTHK programming meets audience expectations; receiving reports on the performance evaluation of RTHK and compliance with performance evaluation indicators, and advising the Director on the adoption of appropriate performance evaluation indicators and ways to improve service delivery; advising the Director on matters relating to community participation in broadcasting on radio and television channels, including advising on the rules for disbursement of the Community Broadcasting Involvement Fund; and initiating studies and research on issues pertaining to the achievement of the public purposes and mission of RTHK.

The Board comprises a balanced mix of persons with good local knowledge and varying expertise, who are appointed in their personal capacity. Members of the Board include the Director as the ex-officio member.

The Board shall maintain regular communication with the RTHK management, but it will not be involved in the day-to-day operation or staffing matters of RTHK, which are to be dealt with by the Director and the RTHK management. And as I have just said, the Board is advisory in nature. It has no executive power. The ultimate editorial responsibility for RTHK rests with the Director.

The Director, as the head of RTHK and the ex-officio member of the Board, may seek advice of the Board on matters pertaining to editorial principles, programming standards, quality of RTHK programming and community participation in broadcasting and he should give due weight and consideration to all advice tendered by the Board. In addition, the Director shall report and explain to the Board the reasons for not following the advice of the Board. The Director should submit performance evaluation reports to the Board and seek its advice on related matters. Lastly, the Director should provide secretarial and other necessary support to the Board in carrying out its functions.

Now I wish to brief Members on — as mentioned by Ms HO earlier — the plans in various areas to be carried out by RTHK under the leadership of the Director in the coming year.

**MS CYD HO** (in Cantonese): The Secretary is repeating the contents of his speech. Will you stop him? He has already talked about RTHK's work for the coming year earlier.

**CHAIRMAN** (in Cantonese): Ms HO, I allow the Secretary to express the way he thinks fit when speaking. If you have a different opinion, you still have the chance to speak later on. Secretary, please continue.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): Thank you, Chairman. In fact, Ms HO in her speech made earlier also mentioned the fact that there would be many kinds of important tasks to be completed by RTHK in the coming year — or the few years to come rather. She has not dwelt on these, other than saying that such work has been completed and so there is no need for the Director to have such a function. I wish to explain to Members that there is much work to be done by RTHK in the future under the leadership of the Director. So I would think that there is a need for me to brief Members on the work plan of RTHK in various areas in the coming year under the leadership of the Director.

President, with respect to radio programming, RTHK will produce special programmes on the 15th anniversary of the founding of the Hong Kong SAR, the

2012 London Olympics, the Legislative Council Election, the Chief Executive's policy address, the 18th National Congress of the Communist Party of China and the presidential elections of the United States. RTHK will make preparations for the introduction of community involvement broadcasting service and enhance its programming in culture and the arts as well as that for elderly persons. RTHK will also commit itself to work in the digitization and conservation of analogue programmes in its archives as well as in the planning work undertaken for the building of the new Broadcasting House in Tseung Kwan O from the perspective of service delivery.

With respect to public affairs and television programmes, RTHK will continue to promote citizenship and support large-scale events held in the SAR. It will continue to produce creative programmes and seek to stimulate creativity through its commissioned productions, explore opportunities of co-operation with local and international partners, and produce programmes on the daily life of the people, including the disadvantaged and ethnic minorities. It will continue with its coverage of public events and productions to cultivate an interest in appreciation of culture and the arts in the people as well as that in sports. RTHK will produce programmes to cover the Legislative Council Election in 2012 and other important events, such as the celebration of the 15th anniversary of the founding of the Hong Kong SAR. It will produce programmes like Glamour of Sport in support of Hong Kong athletes taking part in the 2012 London Olympics, and the 2012 Asia-Pacific Robot Contest jointly organized with the Asia-Pacific Broadcasting Union which draws more than 500 local and overseas participants/spectators from 18 countries/places. This international event aims at making use of the international robot contest, workshops and seminars, placing an emphasis on creative design, information technology and engineering knowledge for the promotion of creative development in information technology and engineering at various levels. In addition, RTHK will increase its production of high-definition programmes and roll out digital terrestrial TV networks to prepare for the introduction of digital terrestrial TV service. RTHK is also committed to the digitization and conservation of the analogue TV programmes archives, and it will undertake planning from a perspective of TV service delivery for the building of the new Broadcasting House in Tseung Kwan O.

With respect to the new media, RTHK will continue with its multimedia and interactive productions and collaboration with outside parties. We will

enhance the web contents with Web 2.0 tools and introduce the e-Learning Channel, and new online projects like the Chinese Civilization Channel. On the technology side, the efficiency of rthk.hk will be improved to provide steady online access to local and overseas users, personalized options will be enhanced and media streaming such as streaming in mp3 and mp4 and with dot-to-dot technology in order to expand the mode of transmission and provide rthk.hk contents for new-generation multimedia communication devices and the possibilities of new services like social television, web television and mobile communication functions will be explored. These will open up new platforms for access to RTHK service. Chairman, RTHK also co-operates with the Education Bureau, teacher organizations and NGOs to hold forums, seminars and workshops on liberal studies for the education sector. These are meant to address the demands for additional learning units in the subject of Liberal Studies and improve the service of eTVonline. Lastly, RTHK will also launch special web projects like Teen Power, DJ Survivor, and so on, for different interests and age groups.

What I have just mentioned are new tasks of RTHK in the short term and in fact, RTHK has a mission to fulfil in the next few years. I would like to make use of this opportunity to brief Members on the development initiatives of RTHK over the next few years. These include the launch of digital audio broadcasting, community involvement broadcasting service, preparations for digital terrestrial television, planning for the building of the new Broadcasting House in Tseung Kwan O and the building of a digitized media asset management system. I actually mentioned briefly some of these when I talked about the short-term tasks of RTHK earlier. Now I would like to brief Members on some details which I have not talked about.

With respect to digital audio broadcasting, RTHK began trial broadcasting on five digital audio channels in November 2011. Of these channels, four will be AM channels currently provided by RTHK, that is, Radio 3, Radio 5, Putonghua Channel and the BBC International Channel. They will improve the quality of reception. Programme contents will be strengthened such as by introducing community involvement broadcasting service. For the remaining digital channel, it will be dedicated to broadcasting special programmes produced by the CCTV for Hong Kong listeners. RTHK will roll out more new programmes in digital broadcasting in the middle of the year.

With respect to digital terrestrial television, RTHK currently does not have any TV transmission network nor any experience in running a TV station. RTHK produces a total of about 600 hours of TV programmes a year for broadcast by the two local free TV stations. RTHK will gradually develop its digital terrestrial TV broadcasting service. In the next few years, RTHK will first build up the required transmission network, including discussing with the two local free TV stations for the lease of suitable hilltop transmission stations, purchasing the required transmission equipment and facilities and conducting technical tests. RTHK has increased the amount of its production of high definition TV programmes since the year 2011-2012 from 50 hours a year to 200 hours to prepare for the launch of a high definition TV channel later.

I have said earlier that RTHK will develop its community involvement broadcasting service on its digital platform. In this respect, the Government has set aside \$45 million to set up a Community Involvement Broadcasting Fund for a trial period of three years. In December last year, RTHK began its public consultation on the Pilot Project for Community Involvement Broadcasting Service. The results of the consultation exercise will be released in the second quarter of this year and a funding application in respect of the Community Involvement Broadcast Fund will be made. It is expected that proposals from the public will be invited in the second half of this year.

With respect to the project of building the new Broadcasting House, the Government has selected a site in Tseung Kwan O for that purpose and completed a technical feasibility study of the project. We are proceeding with the town planning procedure of changing the use of the site in question. The relevant public consultation was completed at the beginning of September last year and the public response was found to be positive. We are preparing the design, construction and tendering arrangements for the new Broadcasting House together with the Architectural Services Department. We know that there is an urgency in building the new Broadcasting House and we will speed up with the progress of the project where circumstances permit.

President, many of the tasks which I have just said are required to be carried out under the leadership of the Director. The Government will attach importance to and respect RTHK's editorial independence as we always do. The Director is the editor-in-chief of RTHK and irrespective of his background, he shall adhere to the principle of editorial independence. For the year past, RTHK

has been producing programmes in a fair and impartial manner and it has followed its principle of serving the public and caring for the needs of the minority groups while offering programmes of diversity to inform, educate and entertain the public. In the TV Programme Appreciation Index Survey conducted in 2011, programmes produced by RTHK took up the top places, unlike the situation depicted by Ms HO has said. Actually, Ms HO could have given a higher appreciation index rating for RTHK because for 14 years in a row RTHK has the best results among the four stations in Hong Kong. RTHK has the highest average appreciation index figures. The five programmes with the highest appreciation index ratings for the year 2011 are all produced by RTHK and among the 20 programmes for the year with the highest ratings, 12 are produced by RTHK. If the amendment by Ms HO is passed, RTHK will no longer be led by a department head and its day-to-day operation and development plan will be affected. This will produce an extremely negative impact on the future development of RTHK. It is therefore irresponsible, and obviously against public interest. I implore Members to vote against the amendment by Ms HO.

Thank you, Chairman.

**MS AUDREY EU** (in Cantonese): Chairman, I will not filibuster like Secretary Gregory SO did for so long. I will just talk briefly about the stand of the Civic Party with respect to the vote later on.

Last year, Ms Cyd HO proposed a similar amendment and at that time, I also spoke on behalf of the Civic Party to oppose Ms HO's amendment. At that time, RTHK was conducting an open recruitment exercise and we had some expectations of that. We hoped that the exercise could recruit some person of calibre as the Director of Broadcasting (Director). Unfortunately, as we knew later, the Government simply cancelled the open recruitment exercise and appointed instead an Administrative Officer (AO). And that person is Mr Roy TANG and he became the Director for RTHK.

As Ms Cyd HO has spoken from the outset, the reason why she proposes the amendment today is to delete a post, not slashing the salary of any particular person. Of course, from the stand of the Civic Party, we know well enough why Ms HO is doing that. Her move stems from a love for RTHK which is very

similar to our stand. For so many years we have been supportive of RTHK. We love the freedom of the press, too. Recently, there has been a spate of incidents and that is, before Director Roy TANG assumed office right to the time when he did so, RTHK had fired a number of contract staff. These include Mr NG Chi-sum. Speaking of the situation now, there are indeed reasons for us to feel upset.

Having said that, we cannot agree with the amendment from Ms Cyd HO. I will explain the reasons for that. First, as Ms HO has said, she is not trying to slash the salary of any particular person. It is not that Director Roy TANG is not doing a good job and so his salary should be slashed or that this pay cut is used as a means to show our discontent with the Director. It is proposed in the amendment that the post be deleted, as simple as that. So the first thing we should consider is whether or not there is a need for the post. Earlier on Secretary Gregory SO has made a lengthy advertisement for RTHK. Indeed it sounds attractive on the surface and RTHK indeed has got some functions to perform. The Director as the head of RTHK has got an important role to play, and that is, to defend editorial independence. Therefore, all along the Civic Party thinks that this is a vital position and we do not agree that the post should be deleted. If it is found that someone is underperforming, then there are many ways we can show our disapproval. But these methods of showing our disapproval should not include the deletion of a post which we consider necessary. We have had a number of excellent Directors and we surely miss them. But when some incompetent person is on the job, that does not mean that the post itself should be axed. This is the first reason.

Chairman, the second reason is that the timing is simply not right. This is because now it really bodes a gathering storm. Ever since Mr LEUNG Chun-ying has become the Chief Executive-elect or even before that, there are rumours floating around about him having been given four major political tasks to accomplish. These are: legislate for the implementation of Article 23 of the Basic Law, take forward a constitutional reform, launch national education and lastly, fix RTHK. Of course, Mr LEUNG denies all this, saying that he does not have these tasks or he has never heard about them. However, we know that Mr LEUNG once said that he would never run for the post of the Chief Executive for a countless number of terms. He used the letter N to signify infinity. But as facts show, N does not include the year 2012. Likewise we have seen the advertisement which Mr LEUNG placed in the newspaper after the June 4



crackdown in 1989. When we ask him now, he says that his stand has never changed, not after so many years. He also says that he loves his country in his own way. Many people are worried because they think Mr LEUNG goes back on his words.

It is under these circumstances that there are rumours that one of his future tasks to complete is to fix RTHK. And if we want to delete the post of the Director, I am worried that a wrong message may be sent and this may conversely help him accomplish his political task. So we would think that this should be avoided.

The third reason. Actually, RTHK is an important indicator for the principle of "one country, two systems". Why? The people of Hong Kong are worried about whether their core values can be upheld, and whether the principles of "one country, two systems" and "Hong Kong people ruling Hong Kong" are really realized. We can see from many incidents or situations where the indicators are pointing. One of these indicators is whether or not RTHK does enjoy editorial independence. In the past we saw the late XU Si-min bombard the RTHK programme "Headliner" and said that it was weird. We also recall the former Chief Executive, TUNG Chee-hwa, having said that the programming quality of RTHK was low. Thus we can see that people in power or with influence will come out and attack RTHK from time to time. But we also remember the time when Mrs Anson CHAN was serving in the Government or when Ms CHEUNG Man-yea was the Director of Broadcasting, when they came out and defended the editorial independence of RTHK. These are the landmark cases we can see. But they all belong to the past. Now many incidents related to RTHK have made us feel very upset. An example is that the employment contract for NG Chi-sum was not renewed when it expired last year. A hearing was held in this Council and Mr NG was invited to attend in person. At that time I asked Mr NG, to this effect, "We have been lending our support to RTHK for so many years, please tell us how we are to do so from now on." NG Chi-sum shook his head and said he did not know how this could be done. The event is disappointing. But sometimes we can see something good out of this welter of evil. We can tell the people of Hong Kong when these sad and unhappy events take place, that we must defend the principle of "one country, two systems" and values like editorial independence, freedom in editing and reporting, freedom of the press, and so on. So the performance of the Director can be an indicator to society and it is because of this that we think the post of the Director should be retained. As I have also said earlier, at least the justifications for the

retention of that post can be beautifully written in words. Secretary Gregory SO has spoken for more than half an hour earlier on how important that post is. So if someone does not perform up to our expectations, we can at least take out the document and condemn him for not doing what has been promised to us. But if the post itself is deleted, we would not be able to do even something like that. This is therefore the third reason why we in the Civic Party do not agree that the post be deleted.

About the fourth reason, I think I would talk briefly about it. Often the argument advanced by people who wish to suppress RTHK is: How can it turn back and bite the hand that feeds it? These people think that since RTHK runs on funding from the Government, its duty is to defend it and ensure that the people can only hear about things positive, instead of things negative. Such bad news should not come from RTHK. These people are treating RTHK as the mouthpiece of the Government. But we must remember that RTHK represents the people and it speaks for the people. Funding for RTHK comes from public money. In the Legislative Council, for so many years we have been fighting for more resources to be allocated to RTHK. We oppose the idea that RTHK should be made to dry up. Often times when we go to RTHK, we would find that many of the instruments and equipment are very muck outdated, shabby and worn out. And during an interview, something might just drop from some machines. This is because RTHK does not have enough resources and hence its development is hampered. All along we have been hoping that RTHK would have enough resources and staff, and that there can be job security for its staff, and hence they can defend and uphold the freedom of the press. This is especially the case when we see from the recent visit by the Vice-Premier LI Keqiang that it was the Government which provided all the press releases and news footages to the media. We do not find this acceptable. We hope that there can be enough public money to groom enough talents to fill all the positions, in order to ensure that the freedom of the press in Hong Kong can be upheld. There must also be opportunities of career advancement in RTHK. Even if the Government is not willing to promote someone within RTHK to fill the vacancy of the Director — and there have been occasions recently when an AO parachuted from another department — but as long as there is this post of the Director, we should insist that it be filled by promoting someone with the expertise required.

We do not want to see any reduction in resource allocation to RTHK for it will land it into operational difficulties that will in turn cause problems in staff promotion. It is due to these reasons that we are worried that any move to reduce any positions or expenses in RTHK will *de facto* cause it to dry up. All in all, it is due to these four reasons that we think that even though we understand why Ms Cyd HO would have proposed an amendment like that and we likewise see why she is doing that, we think that deleting the post of the Director is not a move in the right direction. Hence the Civic Party will oppose the amendment proposed by Ms HO. Thank you, Chairman.

**MR LEE CHEUK-YAN** (in Cantonese): Secretary Gregory SO has spoken earlier for as long as 31 minutes. Do you want me to help you drag on until the Financial Secretary comes back? I do not know if you are waiting for the Financial Secretary to come back or not. If you really want it, then write me a note so that I will know how many minutes you want me to speak and I can help you to filibuster. I hope we can all be honest with each other. Members can see what has happened. I do not know if it is because the Financial Secretary has not come back that you have to speak for 31 minutes.

Chairman, I wish to speak on behalf of the Labour Party in support of this motion moved by Ms Cyd HO to delete the post of the Director of Broadcasting (Director). As we all know, now we have a new situation — as Ms Audrey EU has just said — it is LEUNG Chun-ying who will become the next Chief Executive.

As a matter of fact, before that and that is, during the time of Donald TSANG, efforts have been made to fix RTHK. There are two areas in such actions were taken. First, a Board of Advisors was set up and it is headed by Lester HUANG. Second, an open recruitment exercise to fill the vacancy of the Director was held and in the end the staff of RTHK were very ..... and that applied especially to the professional staff there. Ms Audrey EU said just now that professional staff should be able to be promoted to the post of the Director. But it can be seen clearly from the recruitment exercise last time that professional staff are not promoted to the post of the Director and a civil servant has filled the vacancy. Members should recall what happened after Roy TANG had assumed office and that was: Robert CHOW Yung was unable to make his voice heard on air in the morning programme and NG Chi-sum who hosted the evening

programme "Free Phone" had to stop speaking on RTHK. All these happened instantly.

When RTHK was fixed in this way during the time of Donald TSANG, how would Members think RTHK will be fixed when LEUNG Chun-ying has come to power and when the Western District begins its rule over Hong Kong? The comments made by him and the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG), plus those made by their mouthpiece newspapers, all see RTHK as a thorn in their side.

Many of those with power and influence have attacked RTHK. Just now someone has cited a comment made by those people that RTHK was weird. The programme "Headliner" was under fire. This dissatisfaction with RTHK can be traced back to TUNG Chee-hwa's time. These people thought that RTHK was a thorn in their side. Well, now that the LOCPG has started its rule over Hong Kong, do you think that they will not want to fix RTHK? The first goal for them is to find some mouthpiece for the Communist Party of China (CPC) and there is no reason why that mouthpiece for the CPC ..... will not think in the direction of the ideology of the CPC. Buddy, any organization with funding from the CPC can never avoid being a mouthpiece for it. The propaganda machine is the most powerful weapon for the CPC and this kind of ideological weapon and propaganda machine will certainly want to extend its grip over RTHK. When RTHK is safe in its hands, it will have control on the propaganda machine, do you think that they can allow RTHK to have that much editorial independence and freedom of speech?

So under these new circumstances, I wish to appeal to Members to see clearly what the functions of the Director are. Obviously, what will happen in future? It could well be that now is already the mirror of things to come. This Board of Advisors is almost like a politburo and the Director is like a party secretary. He is no longer a neutral civil servant, but someone with a political mission and the staff working under him are professionals while he is not.

Members have just heard that there are two tiers in the administrative structure: the Board of Advisors and the Director. If in future the Board of Advisors is unhappy, it can speak out and the Director has to explain. When these two tiers begin to work together, RTHK is practically under its control.

We can see that the chairman of the Board of Advisors is Lester HUANG. I can tell Members that I have actually a good impression of Lester HUANG. But we find that in today's copy of the *Apple Daily*, it is reported that Lester HUANG is one of the 10 disciples of LEUNG Chun-ying. I can also note from a report in the *Ta Kung Pao* today that two years ago, well, it was back in 2006, Mr Paul CHAN and many professionals went to Beijing to attend a special programme in Chinese national affairs and after the completion of the programme, the participants formed a group called Hong Kong Professionals Advancement Association Ltd., and one of the members is Lester HUANG. There are rumours that this Association belongs to the LEUNG camp.

What I am talking about is not the report carried in the *Apple Daily* but in *Ta Kung Pao*. There is an analysis made by *Ta Kung Pao* and this point is raised. So in this situation, there is a Board of Advisors, plus a civil servant and if he has a political mission ..... It is often said that civil servants should be politically neutral, something we treasure. But can we have that in future? Will there still be political neutrality?

We all know that we cannot have any fantasy about the future and if we cannot hold any fantasy, then what is the use of retaining this post? The Director is like the party secretary and I now appeal to Members to delete this post of a party secretary. Stop dreaming about a professional being promoted to this post. This will never happen. This post must be deleted, because we do not want a party secretary here.

So I hope that Members can lend their support to this amendment. I know that at the end of the day this amendment will not be passed because there are so many Members from the pro-establishment camp. But we have to make this clear today: RTHK is now in a very precarious position and it is fraught with dangers. After all, a public opinion machine is always something any person in power must control.

Now Hong Kong is not what it used to be. We have just said that this year marks the 15th anniversary of the reunification. And 15 years into the reunification, Hong Kong has really changed a lot. So I hope Members can vote in support of deleting this post of party secretary.

Thank you, Chairman.

(Mr LEE Cheuk-yan remained standing)

Is there still some time left? It seems that the Financial Secretary has not come in yet. Do I need to talk for some more time?

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

**MR PAUL TSE** (in Cantonese): Mr LEE Cheuk-yan, I have no intention whatsoever to filibuster. But after listening to the speeches made by some Honourable colleagues, I hope to make my voice heard in a rather balanced manner.

Chairman, I have said many times that it is never easy to be part of the management of any organization. Certainly, as part of the management, irrespective of the business in question, in issues like the promotion, appointment and dismissal of staff, resource allocation and production costs, or any expenditure item of the company or things like product quality, marketing orientation and target groups, or personnel management matters like who should be retained, sacked or punished, or what sanctions should be imposed on those who do not perform well, one must face all these problems of personnel management in the organization.

But when these management issues or problems are put into the context of a media agency, then more problems will arise. The first thing to note is that people in the media industry have a personality like artistes in the show business. They are people of character, especially those media people dealing with current affairs. If something touches on a political issue, it will become all the more sensitive. There will be conjectures as to whether the persons in question belong to the pro-establishment camp, the opposition or a group with another political stand. If these media people are themselves people with a unique character and they have to host news programmes, their fiery character may cause rules to be broken all the time. I have heard a certain story, but I have no idea whether it is actually true or not. Please correct me if it is not.

At that time in the past when Commercial Radio terminated the contract of a certain media personality or host whose surname was WONG — and there were

some private affairs associated with this Mr WONG, the records of which had been made public and the nature of which was quite similar to that incident concerning Mr KAM Nai-wai which was made public yesterday — when the person in charge informed this media personality of the decision to terminate his contract, the reaction of this person was naturally a heap of expletives, then this Mr WONG added a remark like this: My family name is WONG and yours is harassment. This is an anecdote I know of and as a person who manages this kind of media people, how should he handle it when he comes across a situation like this? Chairman, is it because this media personality has a certain political inclination that when he discusses current affairs he has got a licence and he cannot be fired?

Chairman, I also wish to point out that there are many ways to deal with a problem. A good example is the story of the ancient Chinese sage called XIA Yu who succeeded in containing the floods. Before him, people only knew to contain the floods and they would only erect taller and taller embankments as the water level rose. They thought that a taller embankment would contain the floods. But they failed until XIA Yu thought of another method. We may think that this is a simple method, but it was a great innovation at that time. He diverted the flood water instead of building taller and taller embankments. He wanted to divert the flood water to another place.

Chairman, by the same line of argument, I do not think the problem in Hong Kong now is what kind of political inclination RTHK may have or whose management it is under. It all goes back to a certain convention or practice which began in the colonial times. That is, there are simply not enough broadcasting licences in society. I think that is somehow related to the colonial government's intention of exerting greater control on the media. Hong Kong is such an advanced society and we can see that in recent years there has been some relaxation in the number of licences for the electronic media, but the extent is not substantial at all. In any state or any city or even the campus of a university in the United States, one can easily find three or four radio stations. Of course, there are different considerations for different places, but in Hong Kong where it is so modern and where the freedom of speech is so treasured, there should never be such stringent control on these licences.

Suppose we use the method used by XIA Yu in flood control. We will not build embankments and encircle the river and instead, any person in our

society can apply for a broadcasting licence if only he or she has got the interest and money. That is to say, like the situation in the newspapers or the print media, a licence can be granted if the requirements in law are met. There would not be any need to go underground and set up a radio station or an online station. Instead, everyone can broadcast and compete in the air waves. Then irrespective of whether the radios are from the left or the right and be they biased or not, or even if foul language is used, the people can make their choice. Even if there may be a Buddhist radio which will not air any programmes except the monotonous chant of *Namo Amitabha*, there would still be people listening to it. It does not really matter and this is what is meant by choice. But there is no choice of this kind for Hong Kong people.

Chairman, one of the reasons why I like to go to Taiwan, and I enjoy visiting it whenever I have got the time, is the fact that there are many TV stations there. When I am in a hotel room in Taiwan, I do not really have to do anything and all that I have to do is to grasp the remote control and I will have a lot of fun. There are really hundreds of TV stations as choices and there are even eight to 10 channels broadcasting religious programmes. This should be the way to deal with the media. This is never like what some Honourable colleagues want to do when they criticize RTHK. To them, it seems that they want to use a rope or a plank to prevent the RTHK management from doing anything. I have just said that it is so very difficult to be part of the management and one has to make many choices.

One of our former Honourable colleagues have set up a radio station, and regardless of its political inclination, its position is very different from that of people invited to a RTHK programme. This is one of the possible solutions. If there is not just one Commercial Radio in Hong Kong, but 10 or 100 radio stations like it, then I would not really care about how RTHK will favour the Government. Because it does not really matter. It is just a matter of choice. This is the method use by XIA Yu to contain the floods. Unfortunately, Chairman, the Government has not done anything in this respect and I can only say that it has itself to blame.

If we have so many stations, we should certainly control them. But I do not think we should worry about it. It is because we have a sound law on libel and slander, a Broadcasting Ordinance and a regulatory body for broadcasting



affairs. This is all part of a check and balance mechanism. The only missing piece is options open to the public, businessmen and people with political beliefs.

It would not really matter if the Falun Gong sect is given a station. What does it matter? Let them say what they want. All that matters is the audience. After all, Hong Kong is the freest city in the whole China. All the Members of this Council cannot just do what they like, such as setting up a booth in the busiest spot in Causeway Bay or in the railway station. But we can see Falun Gong everywhere and in any of the hottest tourist spots. So in a certain way, this highlights freedom in Hong Kong. But at the same time, it is also unfair. Why? Because all the other members of the public are not allowed to do so except people from the Falun Gong. They can have many privileges and that is because the Hong Kong Government wants to show that ours is a free place. Why then can we not give the same consideration like this when it comes to broadcasting? This is also a way to highlight the freedom we enjoy. It would not really matter if we have many radio or TV stations.

Chairman, our Honourable colleague, Ms Cyd HO, always sees herself as a champion of the freedom of speech. She has raised the issue of RTHK many times. I wish to ask her a question. I know that in the old Legislative Council Building she often used a room there as a make-shift radio station and she would engage in some webcast or online radio broadcast. But when the online radio station Hong Kong Reporter wanted to interview her, she refused, saying that it was not a radio station or part of the media. I do not know how she would draw a line for that or what her criteria are.

Chairman, another point is when Ms Audrey EU talked earlier about the reasons for her opposition to the motion and one of the reasons was she did not think or agree that the entire station should not be given any funding. But when I check the other motions before this one, including the motion to abolish the Central Policy Unit, I can find that it seems that they have not voted in this way. So once again I hope that when Members say that they agree or not agree to a motion, they should check whether their stand is consistent. This is a very important thing.

In conclusion, Chairman, I would think that we should deal with the RTHK issue with a new mentality. We should not just think about replacing someone and let the person be the head or Director for RTHK. Why? We can see that

in many of our disciplined forces, the person in charge is often not someone from the forces who has been promoted all the way to the post. Then what is meant by being professional and being the head of a unit or an organization? I think the professional concerned may not have to be in the broadcasting profession and all that is required is that the person should be in administration or management. That is what is meant by being a professional.

Some Honourable colleagues query why professionals are not promoted to the post and why it is filled by an Administrative Officer instead. They should know that the professional qualities of an Administrative Officer are precisely in management and administration. We cannot say that a person has not worked all the way up from the bottom and so he or she cannot be part of the management, or the head even. I have great reservations about arguments like these. As I have said, there are many disciplined forces in Hong Kong and these include some very special or professional teams and they are headed by some Administrative Officers. Provided that these officers have the integrity and management experience, they can be regarded as suitable managers.

Thank you, Chairman.

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

**MS AUDREY EU** (in Cantonese): Chairman, I demand a clarification. When Mr Paul TSE spoke earlier, he mentioned my name. He said that I was not consistent in what I said. He said that I did not agree to Ms Cyd HO's demand to delete the expenditure of RTHK in its entirety. Chairman, I have never said so for it is not possible. The amendment by Ms Cyd HO is not about slashing all the expenditure of RTHK. She only says that the post of the Director of Broadcasting should be deleted. So Mr Paul TSE must not mix that up in the first place.

Then Mr Paul TSE asked why the Civic Party lent its support to the amendment by Mr WONG Yuk-man on slashing the expenditure for the Central Policy Unit. Perhaps he did not listen to what Mr Alan LEONG said when he spoke on behalf of our party. Mr LEONG clearly outlined our arguments. As a matter of fact, the two cases are different. Many a time, those things done by

the Central Policy Unit are not readily discernable. But the case with RTHK is different, and it has to face the public. So his analogy is inapt.

Thank you, Chairman.

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

**MR LAU KONG-WAH** (in Cantonese): Chairman, on behalf of the DAB, I speak against this motion. Yesterday, I described the amendment proposed by Ms Audrey EU as nonsensical. This amendment by Ms Cyd HO even seeks to scrap a post for an entire year. After listening carefully to the reasons cited by her, I can only say that she makes no sense at all.

Chairman, I can see that Ms HO has advanced three arguments. As far as the first argument is concerned, she is determined to fire the Director of Broadcasting (the Director) because of RTHK's decision last year to not renew the contracts with two programme hosts, namely Robert CHOW Yung and NG Chi-sum, and dismiss them. President, I have considerable respect for these two hosts, who had invited Members to radio interviews. We were also willing to attend their programmes for interviews. Regardless of whether our political views are the same, I still respect both of them. Nevertheless, I do not think a host should stay forever. Regarding RTHK's new approach lately, when I sometimes tuned into the RTHK programmes and even the criticisms made by some radio listeners, I found them quite fair and impartial even though the programmes were hosted by a civil servant, who was sometimes joined by members of the community as co-hosts. Let us put aside some remote examples. In the recent Chief Executive Election, for instance, I find the performance of RTHK's two phone-in programme hosts quite fair and balanced. Hence, I consider her accusation that RTHK's current approach is unfair and partial unfounded.

Ms HO's second argument is even more surprising. In attacking the existing staff members of RTHK or the senior staff members mentioned by her, she described the present situation as decaying or crumbling from inside. I have no idea what tone she used and in what capacity she was making such comments. Decaying from inside? What were her justifications? I hope Ms HO can say a

few words later in the meeting about her justifications and where such information can be obtained. Her comments are unfair to every staff member of RTHK. In fact, her standard is too low should she make such an unfounded accusation of RTHK being decayed. Insofar as this point is concerned, if some practices of civil servants or government departments are a bit not to her liking, she will criticize them for crumbling from inside. For the entire civil service team or government departments, her comments are quite chilling. I believe her comments will become even more chilling if she has powers.

Ms HO's third argument is a direct attack on the incumbent Director's lack of abilities and determination as well as knowledge of broadcasting affairs. Certainly, I quite agree with one of the arguments advanced by Mr Paul TSE, that management abilities are quite important, too. Although the incumbent Director did not have broadcasting experience, there were occasions in the history of RTHK when its Director had a similar background. Why did Ms HO not raise any queries at that time? In fact, Ms HO was dissatisfied with the former Director, Mr Franklin WONG Wah-kay, who had broadcasting experience. Hence, she is absolutely using her own benchmark and yardstick. In short, if a Director is not to her liking, he or she will still be "killed" and considered having done something wrong, whether or not he or she has broadcasting experience. I find this argument very frightening.

Chairman, I would like to discuss some views on RTHK or press freedom as well as my own expectations. As Members are all aware, RTHK had in the past weathered some storms, and as a member of the Panel on Information Technology and Broadcasting, I had personally experienced them and known the entire process and the situation. Despite the existence of different points of view or strategies and directions in the past, we must allow RTHK to maintain independence and autonomy and pursue development properly without any outside interference, given that a final decision has been made. I recall when I talked with the staff members of RTHK when I first joined this Council, they discussed with us seriously how they would fight for the construction of a new complex, and so on. This is still vivid in my memory. Today, this idea will be realized. I think every staff member of RTHK should hit the road afresh and properly perform their broadcasting task, as independence and autonomy are most important. Despite different political views and points of view held by different political parties and groupings as well as different Members, we in this Council must not be influenced by the criticisms and accusations made by some Members

just now. In fact, this is some sort of alternative political pressure. I hope the staff members of RTHK can get rid of such pressure and perform their own role properly.

As regards freedom of speech, I have frequently exchanged views with Ms Cyd HO on this issue. As the occurrence of processions, demonstrations, and so on, in society is a daily routine, we should constantly discuss our views on such issues as press freedom, freedom of movement and freedom of demonstration, as these are perennial topics.

On press freedom, two news stories yesterday warrant our careful consideration. One of them was about the taking of unauthorized pictures in Hong Kong by Next Media of artistes. From the angle of the media, it has something to do with press freedom, the public's right to know, the public's keen interest in tabloid news and pictures of artistes in the nude, and so on. However, on the issue of how freedom should be defined, the Privacy Commissioner for Personal Data made it very clear yesterday that artistes should have their own freedom and privacy. Hence, in my opinion, press freedom is sometimes not necessarily without boundaries.

Meanwhile, Al Jazeera, an overseas television station, yesterday received a footage of a shooting incident that occurred in France. Certainly, it must be the wish of the sender that the television station would broadcast the footage, and this was his intention. However, the television station had handled the matter in a most sophisticated and professional manner by issuing a statement that the footage would not be broadcast for considerations of social responses and impacts. If members of the public are asked whether they wish to watch the footage, they might probably say they would like to watch it and learn about the details. From the angle of the public's right to know or commercial considerations, a television station will definitely broadcast the footage. But why did Al Jazeera not act in this manner and hand over the footage to the police instead? In my opinion, we can precisely see in this incident what press freedom means in essence.

I do not often see eye to eye with Ms Cyd HO. Coming back to the issue of RTHK, during the earlier discussions on RTHK's operation, charter and Board of Advisors, we all mentioned the point that, apart from allowing RTHK to enjoy independence and autonomy in terms of room for freedom of speech, the

presence of a Board of Advisors can allow members of the community to put forward their views. As with other government departments, we hope members of the community can provide opinions to every one of them. Hence, should some Members say on the one hand that the Government must listen more to opinions but on the other lash out at such advisory boards, I think they are adopting a double standard. Such being the case, we have to consider how Members look at the relevant incidents. Of course, we are discussing today whether the post should be deleted; but how Members look at the issue is quite important, too.

The last point I wish to add concerns Mr LEE Cheuk-yan's earlier remark about LEUNG Chun-ying's ascent to power. He said that today was a new day and many terrible things might happen. This is his remark and observation. I believe the biggest question is, if he thinks that the Director will encounter a lot of problems in future after Mr LEUNG's ascent to power, and so the Director should be dismissed and the post be deleted because the Director cannot maintain political neutrality, then may I ask Mr LEE Cheuk-yan whether all Directors of Departments should be dismissed if such a conclusion is applied to other government departments as well? Secretary Denise YUE is sitting here. As a civil servant, she must stand by the principle of fairness and political neutrality. If a post can be deleted today, other Directors of Departments will feel a chill down their spine, too. What is even more shocking is that such remarks are made by a Member representing the labour sector.

Lastly, I would like to tender Ms Cyd HO a piece of advice — she will probably respond later — that as a Member, she should, on the one hand, express her views freely on these matters and, on the other, stand by the principle of neutrality and look at the issues in an unbiased manner. Thank you, Chairman.

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

**MR WONG YUK-MAN** (in Cantonese): Chairman, originally, I did not want to talk about this issue. I am Chairman of the Panel on Information Technology and Broadcasting. On the situation of Radio Television Hong Kong (RTHK), apart from being a panel chairman, for a long period of time in the past, I had been a programme host of RTHK. I am also very familiar with the management,

programme hosts and members of the labour union of RTHK. I do not wish to use the words "fair-minded, objective and rational" used by Mr LAU Kong-wah.

In the legislature today, Members have proposed amendments to the Budget, but they are only political statements. More than half of the seats in the legislature are controlled by the pro-establishment camp, so these amendments surely would not be passed. However, there is a possibility that we may substitute a fallacy with the truth. Even if you find Ms Cyd HO's comments not to your liking or my comments not to your liking, the legislature is a place for systematic analysis and intense debates. If one has to say things that are pleasing, this would no longer be a legislature. Just look at the National People's Congress. Those people sit in the conference hall and hold meetings according to a uniform mode, using uniform language and presenting uniform facial expressions. However, this is not so here. Here, there are still people like us, who would jump out to play havoc from time to time, are there not? This is what is so valuable about Hong Kong. I do not think there is any cause for concern about press freedom in Hong Kong. The most important thing is to express ourselves and whether journalists are really exercising self-censorship.

According to the latest Gallup Press Freedom Poll, Hong Kong ranks 17th, among the frontrunners. Unfortunately, the one ranking the first in Asia is Taiwan, the Republic of China. In the past, press freedom in Taiwan, the Republic of China was really not up to scratch. Just now, Paul said that in hotels in Taiwan, once you picked up the remote control of a television set, you could watch practically anything. It has gone from one extreme to the other, moving from the reign of white terror and authoritarianism to full freedom, the kind of freedom that is even considered by some people to be inappropriate and abused.

Nowadays, in the Gallup Poll on "A Global Survey of Media Independence" in 133 countries/regions, Taiwan ranks the first in Asia and 16th worldwide. Hong Kong follows close on the heels of Taiwan ..... sorry, I have to correct myself ..... the one ranking 16th should be the United States and the one ranking 17th is Taiwan, whereas Hong Kong ranks 19th, so this is not too bad. Among the top 10 countries with the highest degree of freedom in the world, six of them are found in Europe. The frontrunner is Finland, Holland is second and Australia, third.

Of course, our socialist Motherland is doing really poorly, ranking 89th. However, a place in Asia fared even worse. Mr LAU Kong-wah, can you guess which one? It is not North Korea, but Singapore, ranking 96th. This is the "Global Survey of Media Independence" conducted by the Gallup Poll organization of the United States annually. Therefore, I do not like to blow the issue out of proportions by associating the issues relating to RTHK with press freedom arbitrarily, saying that there is no press freedom.

What is the problem with RTHK? Members have to point out the crux of the problem, which is public service broadcasting. At present, the Hong Kong Government is unwilling to establish a public service broadcaster. This is a public service broadcaster that comes under a government department. Herein lies the problem. The problems that have arisen nowadays, or the problems that some Members are concerned about or the deletion of the post held by Mr Roy TANG, all boil down to one question: Is this a public service broadcaster, a government department or a public service broadcaster serving the functions of a government department at the same time?

At present, the Director, Deputy Director and Assistant Director of RTHK are all civil servants. Here lies the problem. For many years, this makes ..... in addition, there is also the difference between the so-called "contract staff" and "civil service employees". In addition, on what is the greater part of the funds for RTHK spent? Since RTHK is a government department, in the case of civil servants, they are paid under the existing system for civil servants but in the case of some contract staff members, they can be sacked at any time, so there is no job security.

Is one paid for hosting a programme of RTHK? Other media of mass communication may pay you "travelling expenses". Sometimes, we only charge a nominal fee for hosting the programmes of RTHK. Recently, I appeared in a five-minute programme of RTHK called "Chinese Made Efficient". It took five hours to film this three-minute footage because it was handled like a film production. I only charged \$2,000, buddy, but the notice was for a five-hour shoot. We regard this as a public service because RTHK is not a profit-making organization, so we do not mind.

Given that the production budget accounts for only a very small proportion of the expenditure, how can talents be found? Come to think about this. NG



Chi-sum has worked in RTHK for many years, but do you know how much his monthly pay is? His pay is pitifully low. He is a host of great renown and he works five evenings a week, different from our work in commercial radio stations in the past. Just now, the host mentioned by Paul is also surnamed WONG, not "harassment". He is surnamed WONG, but he was also dismissed. Not long after I had been dismissed, he was also dismissed.

Members have to sort out clearly if Hong Kong needs a public service broadcaster, or PBS. We have discussed this issue for some 10 to 20 years. We hope that RTHK can be a public service broadcaster but this cannot be done. Before the reunification, some initiatives were implemented and so were some after the reunification. A few years ago, Donald TSANG appointed Raymond Wong (Uncle) to establish a Committee on Review of Public Service Broadcasting. There was a great deal of fanfare and a large group of people was pooled. A report was published and some recommendations were made. Then, they were just set aside. Then, the Government allocated a little bit more funds to RTHK and created some more posts. Now, in Tseung Kwan O, RTHK will have a new ..... at present, an assessment is being conducted and you said just now that it would be built soon, but perhaps it will not be completed even by the time you and I have kicked the bucket — God forbid, if our lives are so short — so you can wait and see. Although more funds are allocated to RTHK, it is still a government department, but it is also asked to play the role of a public service broadcaster. Basically, this cannot be done, and here lies the crux of the problem.

As regards the amendment proposed by Ms Cyd HO today, the reason for my supporting it is very simple. Not that I am disposed favourably or otherwise towards Roy TANG but that I think we have to use this venue to express our views. The great majority of the amendments to the Budget this year are proposed by the pro-democracy camp. The amendment proposed by me seeks to reduce the expenditure for the Central Policy Unit. Apart from the Democratic Party, all other people have expressed their support. The amendment proposed by "Hulk" seeks to reduce the expenditures for the Chief Executive's Office and the Executive Council, but we have only three votes. This is a political statement, so there is no need to be so alarmed, Mr LAU Kong-wah. Frankly speaking, in our debates, if something pleases you, so be it and if something displeases you, so be it too. In the same vein, when you found what he said just now displeasing, you also fired shots at him, so what is wrong?

It has always been like this here. I think there is no problem if Members criticize each other. All in all, we have to make subjective judgments having regard to objective facts. However, it is different for those people sitting over there. They have power and sway, so such a distinction must be made. We are people's representatives and so are you. Our principle is very simple. We correct mistakes if we have made any and guard against them if we do not have any. We say whatever should be said. It is different for those people sitting over there. Members must remember that they have power and sway. They have administrative power, so we have to monitor them. However, our legislative power is very fragile, Mr LAU Kong-wah. Our legislative power is very fragile and at present, separate voting is practised. Their power comes from the executive-led system and this is stipulated in the Basic Law.

A few days ago, a student interviewed me. He was a Secondary Five student who had to submit an assignment on party politics. He asked: If both the Chief Executive and the Legislative Council are directly elected in the future, what would happen? I think this student is really terrific. I said that under the existing system in Hong Kong, if both were returned through direct elections, that would be a presidential system rather than a cabinet system. In the future, a problem would arise. Since a Chief Executive returned through universal suffrage has popular mandate, for example, if a majority of the public voted for him, whereas the seats in the Legislative Council are returned by geographical constituencies through direct elections, in that case, would Members consider it necessary for the Chief Executive to have political affiliation? In that event, this kind of problems would emerge. However, according to the Basic Law, barring amendments, this would be a presidential system and an executive-led system, so the Chief Executive will have absolute power. In these circumstances, what purpose would we serve in the legislature? In particular, given that not all Members are returned through direct elections at present, the legislature would serve even less purpose. In raising these concerns, what we mean is that the fallacy could be substituted with the truth, so we hope a reminder can be given to Members.

Therefore, I support this amendment proposed by Ms Cyd HO and what I support is the spirit underlying it, not that I am disposed in any particular way towards Roy TANG. I am not going to talk about whether or not the programmes of RTHK are good or not after the reform. I will leave it to the Panel on Information Technology and Broadcasting to discuss this in its

meetings. If you ask me, I would say that the programmes both in the morning and the evening are not fun to listen to and by that I do not mean the contents of the programmes are not stimulating enough, but they are extremely boring. If you say that the treatment in those programmes is balanced, you can listen to them but no one would tune into such programmes. Therefore, this is also a problem that the whole management has to face. Often, we do not know what the programme hosts are driving at. Can Members find anything special about them? No. In the past, there was a Robert CHOW and we often argued about whether or not he was pro-establishment. If he was, his programmes would be more fun to listen to but now, only LEUNG Ka-wing is left to "sing solo" and we do not know what he is driving at, so what is the point of listening? When I drive and hear him hosting his programme, I would turn off the radio. I also listen to the programmes of my own radio station with my iPhone. It is much more interesting to listen to the radio programmes of my radio station and Paul also listens to it very often, does he not? I would not demand that he be dismissed or his pay be cut on account of the contents of this programme. I do not mean this. This is a public broadcaster, so do Members want to turn it into a so-called PBS? This calls for efforts from Members.

Just now, Mr Paul TSE mentioned an issue that we have raised continually, that is, opening up the airwaves. At present, we are still burdened by a case and we want to lodge an appeal with the Court of Final Appeal. What is this for? Because we want to broadcast programmes in our underground radio station. Do you know how much money is spent? The case was dealt with by a Magistracy, then the High Court, then the Court of Final Appeal. What kind of case is this? It is a case about broadcasting programmes from our underground radio, the Citizens' Radio, a radio station without licence. Now, we want to lodge an appeal with the Court of Final Appeal, is that so, Mr LAU Kong-wah? If the Government opens up the airwaves, how possibly could this kind of problem arise? Why is it so strange that even producing programmes constitutes an offence? We are charged with violating the Telecommunications Ordinance, but do Members know that this Ordinance has been in operation since the 1950s, so this is really over the top. Now, after the Office of the Telecommunications Authority (OFTA) was established, it wants to amend the Ordinance, so we hope the Government will really ..... Secretary Gregory SO, since you are here, opening up the airwaves is the general trend, OK? Opening up the airwaves and opening up digital broadcasting ..... now, the authorities have issued several licences for digital broadcasting and the radio stations concerned are operating with difficulty because the audience are still not used to paying \$200 or \$300 for

a digital radio to tune into the programmes produced by Mr Albert CHENG, so up to now, he still does not host any programme and is still struggling to survive.

In many things, there is always a beginning. It is feasible to open up the airwaves, so why not do so? At present, radio stations can be found everywhere. Do Members know that in southern Taiwan alone, there are still over 100 underground radio stations even though the airwaves there have been opened up? This does not matter. Those who like to discuss Buddhism can set up a radio station and so can gays and lesbians and green groups. This is the best way, so the airwaves should be opened up. Therefore, there are actually just two aspects to the whole problem, the first being public service broadcasting, which the Government must really review; and the second is the issue of opening up the airwaves. If these two issues are not resolved, it would not be possible to develop the public broadcasting industry or public service broadcasting in Hong Kong. As regards private radio stations, due to financial constraints, not all of them can obtain licences. Therefore, when their licences are due for renewal, they would all be very nervous and each time, they would come to the relevant Panel of the Legislative Council to perform the rituals, then the OFTA would make the decisions. Finally, the Chief Executive in Council would approve the licence renewals. Since people are making investments, do you mean the Government would refuse to renew the licences? It is not possible for the Government to do so. Even though such a major incident has happened in Asia Television Limited, would the Government renew its licence? Some people said that its licence should not be renewed because it does not follow the rules, but would the Government refuse to do so? The Government would surely renew its licence because the investment in it is so large and not everyone can operate it. For example, recently, three free-to-air television licences were issued and what kind of people can carry on such undertakings? Can Mr LAU Kong-wah or I do so? We cannot because it is necessary to have networks to do so. A lot of do not understand this. Now, there are three television stations and it is necessary to have some kind of pathways, such as the Internet or optical fibre to operate them, so it is not true that any Tom, Dick or Harry can apply for free-to-air television licences, so may I ask how ordinary people can apply for them?

**CHAIRMAN** (in Cantonese): Mr WONG, it is more appropriate for you to voice such views in the Panel chaired by you.

**MR WONG YUK-MAN** (in Cantonese): What?

**CHAIRMAN** (in Cantonese): Should you not raise what you are talking about now in the Panel chaired by you?

**MR WONG YUK-MAN** (in Cantonese): I know, but this is relevant, Chairman. What I am talking about is the public broadcasting industry and the electronic media in Hong Kong. Since Members say that they want to cut the pay of some officials, I have to present my arguments. I think this is not straying from the question, Chairman. I am only giving Members a general profile of the issue, am I not? Members must not always dwell on the political aspect. The biggest problem with RTHK nowadays is the problem of public broadcasting or public service broadcasting, and this is also a problem of opening up the airwaves. Of course, those Members sitting to my right always think about politics first, OK? However, at least, I could hear Mr Paul TSE demand the opening up of the airwaves and it is desirable to have more radio stations. This is what we have been campaigning for over the years. If we want genuine freedom in the flow of information and freedom of expression in Hong Kong, what should we strive for? Since capitalism and a free market is practised in Hong Kong, that means we should have a free and open opinion market. If we want to have a free and open opinion market, we need free and responsible mass media. They can have freedom, but they also have to be responsible, do they not? We need a free and open market, and free and responsible mass media. Thank you, Chairman.

**MRS REGINA IP** (in Cantonese): Chairman, I just want to talk briefly on behalf of the New People's Party to show our objection to all amendments aiming at slashing the salaries of officials or government expenditure items. As Mr WONG Yuk-man said just now, Members have the right to move such amendments as a sign to show their discontent with the officials or the Government. This is a show of political stance. But we think the officials should not be penalized by having their salaries, entertainment fees or other expenditure items axed.

The officials are service providers and speaking of private organizations, we may not be happy with some private-sector service providers. A lawyer is

paid by us to file a lawsuit, but the case may be lost and we may think that the lawyer has not been doing a good job. The beautician provides some beautification service for me and if in the end I become less beautiful than I used to be, I will be unhappy. The fact is, if you are unhappy, you may sue that person. But you cannot say that since you are unhappy, you refuse to pay.

For service providers in the public sector, they go by a set of rules of the game. If an official happens to perform badly, he will see what the public thinks of him from the popularity ratings, or the constant criticisms made by the media or the fact that he is simply not reappointed in the next term of the government. So there is no need for us to mete out punishment on these officials by slashing their salary. Of course, as a show of one's political stand, this would be understandable. The fact that personally I oppose this kind of amendments does not mean that I consider the performance of these officials, including the Chief Executive, to be good. We all have an idea how their performance is like. Therefore, the New People's Party will not and does not support these amendments.

About the issue of freedom of the press, I have listened attentively to the speech made by Mr WONG Yuk-man earlier. Of course, unlike Mr WONG, I am not so well-acquainted with the production staff union of RTHK. The kind of contact I have had with RTHK is mainly my attendance of its programmes, such as interviews by the hosts of "Free Phone" or in the "City Forum". I would think that there is a fair amount of freedom of the press here in Hong Kong. We can all see that in the recent Chief Executive Election, the candidate considered to be preordained by Beijing lost in the end and instead someone considered as an underdog won. Thus there was an upset in the race. In the course of that public opinion played a vital part. How public opinion was affected? It was influenced by media reports. Hong Kong media are very aggressive and active, and they can provide a lot of information to the people, hence they played a part in determining the outcome of the election.

It is because of this that I think there is more freedom of the press now than before the reunification. We should really value this freedom and strive to protect and entrench it.

I so submit.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Secretary for Commerce and Economic Development, do you wish to speak again?

(Secretary for Commerce and Economic Development indicated that he did not wish to speak again)

**CHAIRMAN** (in Cantonese): Ms Cyd HO, do you wish to speak again?

**MS CYD HO** (in Cantonese): Chairman, first of all, let me respond to the speech made by Mr LAU Kong-wah. First, if we really cite facts to advance arguments, I welcome doing so very much. However, if my comments are distorted by replacing one character in it with another, I think such conduct is rather lowly.

Just now, Mr LAU Kong-wah said that I criticized Radio Television Hong Kong (RTHK) for decaying from inside. I must clarify that what I said was "the bastion is crumbling from inside" instead of "decaying". The party that wants to frame RTHK for being corrupt is the SAR Government. For this reason, some years ago, the Audit Commission carried out a number of investigations on RTHK. In addition, the Independent Commission Against Corruption (ICAC) also instituted prosecution in relation to some administrative irregularities in RTHK. Moreover, regrettably, some people had indeed been involved in such administrative irregularities. Even though no actual personal gains had been made, the ICAC was still successful in its prosecution. The party that wants to convey the impression of RTHK being corrupt to the public is the SAR Government, not Cyd HO. Had Mr LAU Kong-wah listened to my whole speech clearly, he would have heard me say that I had great admiration for the fact that at present, there are still many employees who perform their duties as journalists faithfully in RTHK and all along, they have been defending the freedom of the press and the freedom of expression. Therefore, I ask him not to drag RTHK staff at all levels into the water. What I am targeting now is a post

that has become the tool of political oppression, that is, the Director of Broadcasting.

Here, I wish to respond to the Secretary in passing. He said that the appreciation indices for the programmes produced by RTHK were very high, asking us not to deal blows to RTHK. I fully agree with this. The appreciation indices for the programmes produced by RTHK are indeed very high. For example, such programmes as "Headliner" and "LegCo Review" are all very popular with the public, but not with the Government. "Headliner" has always been a programme that the top echelon of the Government wants to cancel. Therefore, we have to defend the independence and autonomy of the production team. I do not wish to see a Director who deals blows to production independence and autonomy and journalistic and editorial freedom stay in RTHK.

In addition, just now, Mr LAU Kong-wah also pointed out that in the past, Administrative Officers had also served as the Director of Broadcasting. If he wants to hark back to the colonial Government of the 1970s or 1980s, it is really not possible for me to verify his claim because at that time, I had not yet been involved in social and political activities. However, we can review the situation since 1986. According to the information I have here, from 1986 to 1999, Ms CHEUNG Man-yea was the Director of Broadcasting. She came from a production team of the Television Programme section. Mr CHU Pui-hing, who served from 1999 to 2007, also came from a production team of RTHK. His successor was Ms Gracie FOO, who was an Administrative Officer and she served as the Director on acting appointment in RTHK for one year. We strongly criticized this arrangement. As regards Mr Franklin WONG, he was originally a member of a production team of RTHK and as we said just now, he has the experience of working in Singapore in a media corporation called MediaCorp, which is controlled by the local government. From 2008 to 2011, he went back to RTHK but any way, he is a professional producer. However, Mr Roy TANG is an Administrative Officer with no experience whatsoever in broadcasting and production. He took office in 2011 and we criticized this arrangement strongly.

In addition, Mr LAU Kong-wah also pointed out that we had to abide by the middle way and be impartial. I agree very much with this point, but I really wish to explore what "being objective and balanced" means together with the general public. It is not true that there is no value judgment in the so-called



objectivity and neutrality. It does not mean that it should be like directing the traffic, that is, A, B and C are allowed to say something in turn and after that, that is the end of the programme. We believe that what is meant by being objective and neutral should actually include pluralistic views and opportunities should be made available for the presentation of these diverse views. Often, there can also be clashes among these pluralistic views. Only in this way can there be interactions and discussions. Nevertheless, often, if some views are regarded as minority ones for the time being, they are considered radical and suppressed from the very beginning, so there is no opportunity to lobby the public and it is not possible for them to become majority views.

Therefore, no matter how neutral and objective a programme host is, when he sees that there are no opposing views, he would immediately play the role of a devil's advocate by voicing opposing views to stimulate the audience to have discussions together. If the host only lets various members of the audience speak, letting A and B say something separately and calls this objectivity and neutrality, sorry, this is not the best way to encourage discussion among the public. In the end, this kind of objectivity would only prevent dissent from being voiced. In the end, all people in society would appear to be the same and they would say the same things. This is the last thing we would wish to see.

What I also want to talk about is the Board of Advisors. The Board is appointed by the Chief Executive, but such a practice is not desirable. Of course, if RTHK is a genuine and independent public service broadcaster like the British Broadcasting Corporation (BBC), we can accept the formation of a Board comprised of people with credibility who command respect and trust in society. Apart from the Board, in fact, an audience advisory panel should also be established. At present, there is also an audience advisory panel in RTHK consisting of people from the left, the middle and the right. There are Mr WONG Siu-ye as well as other people from the pro-democracy camp. The advice offered by this kind of audience advisory panel is different from that of the Board and the Secretary also talked about this just now. If the Director does not accept the recommendations made by the Board, he has to give an explanation and submit a written report, so he is accountable to the Board. In addition, the Secretary also omitted to read out one point, that is, the Board can offer advice on the planning and production objectives for the coming year. However, why is it necessary for this Board, which is appointed by the Chief Executive, to offer

advice on objectives that have not yet been proposed? This is a major form of intervention.

I wonder if the Secretary was filibustering just now in talking about the duties of RTHK in great detail, which include providing digital television service, developing a new Broadcasting House, selecting the means of transmission, selecting sites for transmitting stations, conducting public consultation, and so on. In fact, I also have a programme guide here and if the Secretary wants to filibuster, I can provide it to him, so that he can read it out. The programmes of six channels are set out in it, so he can read them out, from 5 am to the evening. If we only adopt the filibustering approach by talking about this kind of work on the hardware but overlook the upholding of editorial, journalistic and production independence and autonomy and the efforts in such software as the protection of the freedoms of the press and expression, in fact, many of the comments made in those 30 minutes just now could have been deleted. If there is really a need to filibuster, I suggest that the Secretary may as well request the Chairman to suspend the meeting and wait until the Financial Secretary has arrived before concluding the handling of this amendment and proceeding with the Third Reading of the Bill. In that case, the Financial Secretary would not slip up by being absent in the Third Reading.

Chairman, genuine public service broadcasting is not influenced by political pressure and enjoys genuine financial independence. Just now, the Secretary kept saying that RTHK was a public service broadcaster but in fact, this is wrong and misleading the public. Up to now, RTHK is only a government department rather than an independent public service broadcaster. It is a public organization funded by the Government. However, at present, the public have no right to take part in its operation. The source of funding for a genuine public service broadcaster should be protected by the law.

Mr Raymond WONG once invited me to join a subcommittee under the Review Committee headed by him to discuss the sources of funding for RTHK or the future public service broadcaster. At that time, I proposed that an amount equivalent to 1% of rates revenue be allocated to it, so that at least 70% of the expenses of the public service broadcaster could be met. This move can ensure that the public service broadcaster will have a basic source of funding, so that it does not have to change its programming policy due to the commercial pressure to compete for advertisements. Of course, the Government objected to this at

that time and even members of the Review Committee offered me the advice that my proposal would make the public service broadcaster truly independent, so the Government surely would not accept this; that I had better not go that far and should reduce the allocation.

That was how a proposal that could make the public service broadcaster truly financially independent of the Government was ruled out. We could only settle for the second best by making the budget of RTHK independent and separating it from the envelope prepared by the Secretary, just as that for the Judiciary is dealt with independently by allocating funds to it direct. However, ultimately, the executive is still responsible for gate-keeping, only that the tier of the Secretary is removed. However, has the present situation changed in any way? Does the existing financial arrangement really fit for a public service broadcaster? Members can all see clearly that the present source of funding is just the same as the arrangement for a government department and it is still controlled by the SAR Government.

As regards resources, in the past, we could also see that the Government had been constricting RTHK. After the financial turmoil in 1999, all government departments had to make savings and the target of each government department was to save 5% of its expenditure. That was the order handed down by the then Financial Secretary, Mr Anthony LEUNG. Can Members guess how much RTHK saved in those four years? Other government departments saved 5%, but RTHK saved 10%. As a result, many members of the production staff who were originally civil servants became contract staff. When they have no job security, wastage in production staff occurred as a result, thus resulting in the succession problem in RTHK now. This is the result of the executive drying up RTHK, so how can the Secretary say here that RTHK is a public service broadcaster? RTHK is under the control of the executive.

Chairman, in the past, we were very worried that one day, the situation of Members of the pro-establishment camp defending RTHK and those of the pro-democracy camp criticizing it would occur and this day — that is, today — has finally come. I hope the senior management of RTHK who proposed the changes in programmes can reflect on why the amendment proposed by me does not seek to delete their posts but only that of the Director? Because up to now, I still respect the roles played by the production staff and believe that their independence should be protected. However, now the Director of Broadcasting

is only a tool responsible for political oppression and dealing with the Board perfunctorily, so why should we spend this sum of money to keep this person?

Lastly, I wish to respond to the new RTHK Charter read out by the Secretary just now. In fact, in the Panel, we challenged the Secretary by saying that this Charter is not a legal document and if government officials breach the Charter, they only have to assume political responsibility. However, we can also see what sort of political responsibility officials of the SAR have to assume at present. They are holding onto their views stubbornly and think that is how good officials should be. This is because the Charter is not a legal document and if any government official violates the Charter, neither the staff members of RTHK nor members of the public concerned about the freedoms of the press and speech can sue the SAR Government for breach of contract. This is only a Charter put down in writing for us to read. Moreover, it also strongly emphasizes the promotion of national identity. I wish to ask the Secretary one point in this connection. According to this rationale, back then, since the BBC voiced dissent directed at Tony BLAIR and strongly criticized the investigation carried out by the British Government into the possession of weapons of mass destruction by Iraq as being biased, is this tantamount to undermining the sense of national identity? In fact, if the legislation on Article 23 of the Basic Law is passed, doing so would simply be an offence in law.

President, the freedom of expression in Hong Kong is increasingly subjected to oppression, so I hope all members of the industry can hold fast to their posts conscientiously and defend their vocation staunchly.

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

(Members raised their hands)

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

(Members raised their hands)

Ms Cyd HO rose to claim a division.

**CHAIRMAN** (in Cantonese): Ms Cyd HO has claimed a division. The division bell will ring for five minutes.

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

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

Functional Constituencies:

Mr CHEUNG Kwok-che voted for the amendment.

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

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Mr Frederick FUNG, Ms Cyd HO, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr Andrew CHENG, Mr TAM Yiu-chung, Ms Audrey EU, Mr CHEUNG Hok-ming, Mr KAM Nai-wai, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mrs Regina IP, Mr Alan LEONG and Miss Tanya CHAN voted against the amendment.

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

THE CHAIRMAN announced that among the Members returned by functional constituencies, 26 were present, one was in favour of the amendment and 25 against it; while among the Members returned by geographical constituencies through direct elections, 24 were present, six were in favour of the amendment and 17 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the sum for head 160 stand part of the Schedule.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the sum for head 160 stand part of the Schedule. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the Schedule stand part of the Bill. According to Rule 68(4) of the Rules of Procedure, this question is neither amendable nor debatable.

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

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): We now consider the clauses of the Bill. I now propose the question to you and that is: That the following clauses stand part of the Bill.

**CLERK** (in Cantonese): Clauses 1 and 2.

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

**MR FRED LI** (in Cantonese): Chairman, since our party Chairman is indisposed, I will make clarifications on behalf of the Democratic Party and give an account of its voting inclination here.

Reviewing how the Democratic Party voted on the budgets in the past, in the past three years and the four years before that, depending on the proposals in the budget each year, we have cast both supporting and opposing votes. The proposals put forward by the Democratic Party included both major proposals and

long-term proposals and it was hoped that the Government would analyse and adopt them. Of course, given that there were some 100 to 200 proposals on each occasion, we also understood that it would be impossible to ask the Government to take on board all of them before we would cast supporting votes. For this reason, we would make a decision rationally having regard to whether or not our major proposals were adopted.

Last year, we voted against the budget because we believed that the process of handing out \$6,000 had not gone through serious discussions. It was only because the measure of injecting the funds into Mandatory Provident Fund accounts could not win public support that the Government switched to handing out \$6,000 directly instead. For this reason, we cast opposing votes, but there is no point in talking too much about what happened last year.

This year, we had proposed several major proposals with long-term implications, including those relating to financial assistance for drugs. We are glad to find that the Government has adopted this proposal by injecting \$10 billion into the Samaritan Fund. Directly-elected Members would often come across members of the public who relayed to them that, due to problems with the Drug Formulary, they had to pay for drugs out of their own pockets and often, this gave them a lot of trouble. If only \$100 million is injected annually, there are many constraints but if \$10 billion can be injected to provide financial assistance over a decade, the effectiveness will multiply. This is an important proposal put forward by the Democratic Party and adopted by the Government, so it is necessary for me to point this out in particular here.

In addition, regarding taxes, we had proposed that the ceiling of tax allowance be raised to \$12,000 and the period of home loan interest reduction be extended to 15 years. These two proposals were both taken on board by the Government. Here, we wish to state clearly that the Democratic Party believes the Government has adopted the proposals put forward by us. However, after the Budget this year had been released, the Democratic Party also raised one point, that is, the needs of the "N have-nots" had been overlooked and this is also an issue of the greatest concern to us. We strongly demanded that the Government provide assistance to the "N have-nots" and consider how best further assistance can be given to them. This is because they cannot benefit from the subsidy on electricity tariff or the rates waiver, they do not have to pay tax, they are not recipients of Comprehensive Social Security Assistance and still



less do they own any self-occupied property, so they feel very strongly that although the Government is sitting on a huge surplus, they alone have been neglected.

Over the past month or so, the Democratic Party has been watching the situation closely, and we have also delivered strong messages to the Government. It was not until this week that the Community Care Fund (CCF) finally revised the proposal put forward by Chief Secretary Joseph LAM in his capacity as the Chairman of the CCF to offer a subsidy of \$1,800 to the "N have-nots". We were not at all satisfied with the initial proposal but after a meeting on the 26th of this month, Prof Nelson CHOW of the CCF said and the Government also agreed that singletons who are "N have-nots" can receive a subsidy of \$3,000, whereas a two-member family can receive a subsidy of \$6,000 and the amount of subsidy for a three-member family is \$8,000.

In contrast with the amount of \$1,800, the aforementioned amounts of subsidy are quite close to those in the initial proposal of the Democratic Party. Therefore, after continual discussion within our party, we voiced our welcome for this piece of news and the aforementioned announcement made by the CCF at the last minute. The Democratic Party is a responsible political party. I believe that once the views put forward have drawn positive responses from the Government, the relevant measures should be implemented as soon as possible. Therefore, the Democratic Party will vote in favour of the Budget this year.

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

**MR LEE CHEUK-YAN** (in Cantonese): President, on behalf of the Labour Party, I wish to state our opposition to the Budget this year clearly. The reason is very simple. I believe the Financial Secretary also knows that over the years, when we exchanged views with him, there were always fundamental differences between us.

The fundamental differences could be attributable to the fact that the Budget would, we believe, fail completely in fulfilling its function of public resource redistribution. Why? The most important aspect of public resource redistribution is recurrent expenditure. At present, the whole system is riddled with problems. Be it healthcare, education or social welfare, they are all riddled

with problems. After patching up a fault, another crack would come to light, so how can all the faults be patched up? Basically, we cannot rely on the few relief measures that the Financial Secretary has adopted all along, for example, using sweeteners, small favours or one-off handouts to resolve the issues, rather, it is necessary to increase the recurrent expenditure over an extended period of time.

We have pointed out for several years in a row that the Financial Secretary should increase the recurrent expenditure by at least \$20 billion. Just consider this. Over the past five years, the money handed out by him has amounted to over \$200 billion and by increasing the annual recurrent expenditure by \$20 billion, many problems can already be solved completely and there is practically no need to establish the so-called Community Care Fund (CCF) to deal with problems using one-off measures that are not long-term and amount only to tinkering. Take the assistance for the "N have-nots" this time around as an example, in fact, the Government should provide long-term assistance to them and provide, over extended periods of time, a living supplement to people living in "sub-divided units and those waiting for public housing who have passed the means test for waitlisting, so that all of them can be assisted financially. However, the measure introduced by the CCF on this occasion is again a one-off measure and there is no telling if it will be reintroduced next year. In fact, we should begin to tackle these problems through the recurrent expenditure.

The applications for transport subsidy should be handled by a "dual-track" approach. I have talked about this many times but in the end, it is still not adopted. Worse of all, the public think that the Government is only preoccupied with infrastructure projects and does not mind even though tens of billions or even hundreds of billions of dollars are splurged in one go, but if they want to get a little long-term instead of one-off assistance in their living, they can never get it. Therefore, all these are the fundamental differences. In respect of revenue, there are also fundamental differences. For example, we have proposed frequently that progressive profits tax be introduced but so far, this has not been taken on board. The most unfair point is that in Hong Kong, dividend tax is not levied. In fact, in respect of share dividends, at present, one single family clan alone earns \$7.6 billion of this kind of income. If a dividend tax of 15% is levied on this \$7.6 billion, a tax revenue of almost \$2 billion can be generated.

Why is the problem of wealth disparity always found in Hong Kong? Precisely because the Government is not taking action to solve it in earnest.

Therefore, due to these fundamental differences, the Labour Party will surely vote against the Budget. Moreover, it is not optimistic about the future. Thank you, Chairman.

**CHAIRMAN** (in Cantonese): I wish to remind Members that we are examining clauses 1 and 2 of the Bill. Please avoid repeating what has already been said in the debate on the resumed Second Reading. Does any other Member wish to speak?

**MR ALBERT CHAN** (in Cantonese): Chairman, basically, I wish to comment in brief on the relevant arrangements and issues raised by the Financial Secretary. In fact, I have already elaborated on the relevant issues in the debate on the Second Reading, so I only wish to add a couple of points now.

As the Chairman also knows, insofar as the whole Budget is concerned, I have actively proposed amendments to the part relating to rates but due to the charging effect of the proposed resolution, the President eventually ruled that I cannot propose the relevant resolution. As a result, the tilt in interests towards major property developers and the transfer of benefits to them that can be found in the whole Budget continue to exist. I wish to rectify a very serious fiscal mistake but due to the ruling that the proposed resolution cannot be proposed, I cannot do so, so this is regrettable.

The proposals put forward by the Financial Secretary basically further entrench or exacerbate the wealth disparity in Hong Kong, thus aggravating the problem of poverty. Many of the proposals, such as waiving business registration fees, are entirely tilted towards the business sector but in respect of the many licences that labourers must obtain, including safety certificates and licences for operating machinery, the fees for them must be paid annually and are not waived in any way. In other words, for people doing business, be they people who have befriended the Financial Secretary or the Chief Executive, they are given all sorts of exemptions and funds in all sorts of areas, but the poor, the general public and the working class, that is, people whom the FTU should represent, have all been neglected. However, it seems the FTU is turning a blind eye to this and continues to support the exchange of interests and transfer of benefits between the Government and consortia.

It is true that on the whole, the Government will hand out \$100 billion but the great majority of the public will only receive a meagre sum of money. Just now, some Members mentioned the CCF, Chairman, and the Government said that it would deal with the relevant issues through the CCF, so I think the People Power must respond to this claim. This is because the impression given by the CCF is that it serves as a net that takes care of people whom the Budget fails to catch. In terms of the policy objective, this must absolutely be condemned. The "N have-nots" are also part of the Hong Kong public and so are other members of the public in the lower class. The relevant principal provisions in the Budget, including the provisions awaiting passage later on, should take care of various social strata. It is not right to offer waivers directly, pay money directly and transfer benefits directly to the rich through the provisions of the Budget, but in respect of the socially disadvantaged groups, the "charity" mode is adopted to "care about" and "show love and protection" for them, so that some time in the future who knows when, some basic care is provided to them like the doling out of alms. Therefore, in terms of logic and philosophy of governance, this must be condemned.

Representatives of public opinion and representatives concerned about grass-roots organizations should by no means support this kind of discriminatory approach and attitude adopted by the Government in handling issues. To the rich and powerful, the Government blatantly transfers and distributes benefits to them but to people in the lower class and the "N have-nots", a charity and patronizing mode found at the beginning of the industrial revolution in the 19th century is adopted and these people are required to submit applications. Why can rates to the tune of \$11.7 billion be waived directly but when "Eunuch LAM" was talking about the tens of thousands of "N have-nots" eligible for assistance under the CCF, he said that they had to submit applications to receive \$6,000 or \$8,000? They have to make an effort to lodge applications, just like the receipt of alms, so what kind of logic is this? What sort of world is this?

In this Budget, the Government has a surplus of almost \$100 billion, so the benefit of such an excess amounting to hundreds of billion dollars has to be transferred to consortia and the largest amount of rates waived, standing at \$90 million, was enjoyed by a company. The amount of rates waived for a company even exceeds the amount of money handed out to the "N have-nots" through the CCF by tens of million dollars, does it not? "Eunuch LAM" said that the sum of money handed out to the "N have-nots" would amount to

\$600 million or \$700 million but the rates waived for a single company already amounts to \$90 million. If this is not a blatant transfer of benefit, what is it then? If you look at the first 10 companies getting the largest amounts of rates waived, the largest amount is \$90 million, followed by some \$20 million, then some \$10 million and \$8 million. The first 10 companies will be waived a total of some \$200 million in rates payment, will they not? Maybe all of them are owned by the "friends" of the Chief Executive, who had rides in their yachts and private planes when making his trips, while the "N have-nots" are not the friends of Chief Executive or senior officials, so they are given money only like alms.

Therefore, President, I am enraged by and ashamed of this Budget as it practises the skewed distribution of benefits and blatant transfer of benefits. That the legislature can accept this sort of thing is a disgrace to the legislature, is it not? The People Power strongly condemns and opposes this kind of fiscal arrangement and distribution fraught with class discrimination and strongly condemns this kind of philosophy of governance and fiscal management that is concerned only with transferring benefits to consortia to the neglect of the welfare of the grassroots. For this reason, we will resolutely cast opposing votes.

**CHAIRMAN** (in Cantonese): Let me remind Members once again that they should not repeat what they have said in the debate on Second Reading at this stage of examination.

**MR FREDERICK FUNG** (in Cantonese): Chairman, I do not wish to repeat comments made in the debate on Second Reading. I already voiced my views on the Budget in the Second Reading debate. These two days, having heard the speeches delivered by the Secretary and the Financial Secretary and the positions on the amendments voiced by the Government, of course, I have some reactions to them. I do not intend to stir up a debate here. I only wish to talk about the stances that I may not have expressed in the Second Reading debate in view of these reactions.

I am going to talk about several points. Firstly, the Government has not dealt with or responded to the views expressed by me in the Second Reading debate, that is, most of the relief measures are a rehash of past measures, whereas some new measures introduced by the Government will only serve to hand out

more money to the middle class or the upper-middle class instead. They include such measures as rates waiver and tax reduction. I think it is not a problem for the Government to hand out goodies to them. I would not be green with envy, but the distribution must be even. For the Government, the biggest problem does not lie in insufficient wealth but in its unequal distribution. Is such a completely skewed way of handing out money reasonable and appropriate? How can the Government account for this to the low-income people and even people without income?

The second point is related to the six priority industries. In the Government's response, there was no mention of how the six priority industries would be promoted but they were found in the political platform of Chief Executive Donald TSANG when he was standing in election and he has also said a number of times that they have to be promoted, as they are the areas that can promote economic development in Hong Kong. However, in the Government's response, it was not mentioned in any way how they could be better promoted. We could only hear the Financial Secretary talk about several principles but ultimately, we have to rely on the market and if the market does not move, the six priority industries cannot move either.

Thirdly, he has not dealt with the problem of wealth disparity in Hong Kong through the Budget. Wealth disparity is a widely acknowledged problem in Hong Kong. From members of the grassroots through academics to even the business sector, they all say that the wealth gap is widening, so the Government should do something and must face and deal with it actively. Regarding the Budget, as people who have studied social policies or finance know, the fiscal estimates or allocations are one of the very important mechanisms for dealing with the problem of wealth disparity. However, so far, we still do not find the Government willing to adopt this approach. On the contrary, it seeks to widen the wealth gap even further by waiving rates and reducing taxes.

Fourthly, Chief Executive Donald TSANG stressed in his election platform in 2007 that employment opportunities would be increased by means of social enterprises to give socially disadvantaged workers a platform and opportunities to find jobs. However, in the end, not a single reference was made to this and each year, only \$30 million is slated for the public to make applications. There is no concern about their survival, nor is there any complementary policy to enable social enterprises to offer more opportunities to the lower-middle class and

socially disadvantaged workers. Social enterprises are not something new and they have been in operation for 10 to 20 years in European and American countries. Even in other places in Asia, including Taiwan and Korea, which Legislative Council Members have visited, a very good job has been done but we are still "talking as if we are invincible, but are all feeble in taking action".

The fifth point is related to the "N have-nots". In fact, the Democratic Party said just now that the Government was now willing to distribute money to the "N have-nots" as proposed by them, so it would show its support. I do not agree that the money will be given to the "N have-nots". At present, it is handed out to people living in "sub-divided units", but many "N have-nots" do not live in such units.

Another issue is how to distribute the money to the "N have-nots". In fact, during the discussion on the budget last year, the legislature and people in society already asked the Government to pay attention to the fact that the neediest people were the "N have-nots". Can the Government determine the scope, definition and number of the "N have-nots"? How can they be assisted? Of course, handing out money is one way. If the long-term or permanent mechanisms mentioned just now are not introduced, handing out money is the only way to distribute money directly and immediately to the poorest and neediest people, that is, people called the "N have-nots".

I do not think that by adopting a progressive approach to hand out \$2,000, \$4,000 or \$6,000 to people living in "sub-divided units" now, the Government has dealt with the problem of "N have-nots". If the problem of "N have-nots" is not dealt with now, it will continue to fester in society and bedevil the present Government and even the next, thus causing social unrest.

Finally, on the dual-track approach for the Work Incentive Transport Subsidy Scheme, which is very simple and can be implemented easily, I really do not understand why the principle of the entire scheme can be changed from that of a transport subsidy to assist low-income workers in their commute in the past to a supplement for low-income families, yet one can still tell lies unblinkingly, since the name of the subsidy does not live up to its nature. What we demand now is the implementation of a dual-track approach. The aim is actually to enable the Government to make the nature of the scheme true to its name but again, it is unwilling to do so.

Chairman, in sum, in the Government's responses and even in the debate in these two days, these six issues of principle have not been dealt with in any way, so I cannot support this Budget. Thank you.

**MR WONG YUK-MAN** (in Cantonese): Chairman, today is 29 March. In China, there are two Youth Days, one being 4 May, the day of the May 4 Movement and the other being 29 March, when the Huanghuagang Uprising is commemorated.

When I was studying in secondary school, I studied a model text entitled "A Letter of Farewell to My Wife" in a textbook. In it, there is a most touching line that reads,<sup>1</sup>: "I extend my love for you to help others love whom they love, that is why I dare to die before you without regard to you." "I extend my love for you to help others love whom they love" means sacrificing one's life in a struggle. Now, the Government has a fiscal reserve amounting to over \$2,000 billion, so is it saying that it cannot "extend my love for you to help others love whom they love"? The Government has such a large amount of surplus but it is handing the surplus out to the rich. The Democratic Party proposes a tax reduction of \$12,000 but to the "N have-nots", as Mr Albert CHAN said, the Government is only doling out alms to them, so what sort of rationale is this? Back then, revolutionaries said to their wives, "I extend my love for you to help others love whom they love", so they realized the spirit of sacrificing their lives to advance the cause of the revolution and to "help others love whom they love". Now, the Government has hoarded a substantial reserve. This is the wealth accumulated by Hong Kong people, be they young or old, in the past by working hard for several decades. It is handed over to the Government for distribution but in the end, it is used to enrich a small number of people.

The amendment proposed by Mr Albert CHAN represents a very just cause. If we use three units as the upper limit, owners would be entitled only to a waiver of \$30,000 in rates at the most. However, the Government now offers waivers amounting to \$90 million, \$1 million, \$5 million or \$20 million. What Mr Albert CHAN said just now was really pathetic. Someone was exempted from paying \$90 million in rates by the Government through a company but the amount of money allocated by the CCF only amounts to tens of million dollars.

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<sup>1</sup> <[http://hi.baidu.com/lilywhite\\_lily/blog/item/0ff97c2af4999b91023bf6e9.html](http://hi.baidu.com/lilywhite_lily/blog/item/0ff97c2af4999b91023bf6e9.html)>



Moreover, it is necessary to make applications, so this is really a most grovelling act. I am using language that the masses understand and I am not discussing technical problems with the Government. President, what sort of fiscal philosophy is that? How does the Government distribute wealth? We are not talking about how much revenue or expenditure the Government will have this year. Buddy, the Government has a surplus and that is excess money. May I ask why it is necessary to adopt such an approach in distributing it? Why is it necessary to distribute \$11.7 billion through the rates waiver? Why is it necessary to reduce the profits tax? Buddy, this is unjustifiable.

Recently, I have dealt with two cases. In fact, they were not cases as I did not know what could be done. Late last year, the Buildings Department (BD) wanted to demolish the "sub-divided units" in those industrial buildings in Tai Kok Tsui, so the tenants were forced to move out. Industrial buildings cannot be used for residential purposes but some owners broke the law by turning them into "sub-divided units". This is common place. Since the BD wanted to demolish the units, the tenants sought assistance from me. I told them to sleep in the street. I set up three tents for them outside the entrance to the Pioneer Centre, in which the office of the BD is located, on Nathan Road. They slept there for a fortnight. It was the end of the year and Chinese New Year was around the corner. It was cold and I remember that in the evening of the 28th day of the last month of the Chinese lunar calendar, when the custom was to "wash away the dirt", I told my assistants to buy three orders of "poon choi" to have a Chinese New Year eve dinner together with these people.

The rent of a "sub-divided unit" is \$700 monthly and most of the tenants live on CSSA. The Government drove them into a dead end but did not rehouse them, only telling them to leave. The Government only said that the "sub-divided units" in industrial buildings were illegal, so the Government had to demolish them and that since they had only rented these "sub-divided units", they could just rent a place elsewhere for dwelling. These kai fongs told me that at present, a place of a similar size commands a rent of \$2,200 monthly, and it is necessary to pay two months of rental as deposit, the first month of rent and half a month of commission, so does one mean they should rob to get the money? How much do the rent allowance and the food subsidy in the CSSA payment granted by the Government amount to? The rent allowance amounts to only some \$1,000 and after paying \$700 in rent, only several hundred dollars are at their disposal. People on CSSA only have about \$1,700 to \$1,800 and this

amount is meant to cover three meals a day and travel expenses. In addition, there are also those "N have-nots" living in "sub-divided units". Who wants to be bald if one has hair? Therefore, I told them to sleep in the streets as a form of struggle but unfortunately, no newspaper ever reported on this, and it was only later on that some people talked about this. Now, the Government has rehoused them in the interim housing in Tuen Mun. We did not say that we had mounted a successful campaign because even I myself thought that I had not done any good, only that I did whatever I could.

Another case is related to the street sleepers in Sham Shui Po. Last week, "Ah Che" and I led more than a dozen street sleepers to a meeting with a District Officer, a Superintendent of the Food and Environmental Hygiene Department and a District Commander of the Hong Kong Police Force. The Government cleared these street sleepers from the streets and removed their belongings, so we are demanding from the Government a compensation of \$3,000 for each person. These street sleepers are really admirable. They said that if the Government offered a compensation of \$3,000 to each of them, they would donate the money to charity.

What sort of Government is this? Buddy, these government officials are sitting here, receiving high pay, but it looks as though they were barely hanging on to life. This bunch of people is just killing time here. Some of them are waiting for LEUNG Chun-ying to invite them to stay on, while others are waiting for retirement after completing the remaining several months of their term. The Government is sitting on such a great amount of surplus, so how can we possibly support the Budget? Of course, the "white pigeon party" is feeling self-important — is LAW Chi-kwong the Chairman of the Steering Committee on Community Care Fund? I gathered that the former Vice-Chairman of the Democratic Party, Anthony CHEUNG, may take up the post of the Secretary for Education. That is right, get rich together, right? How can I support this Budget?

I am not going to talk about the so-called technical issues, fiscal philosophy or economic growth of Hong Kong. I just do not bother to waste my breath talking about these things, but you cannot take this to mean that I know nothing about them. The rationale is very simple. It is only necessary to approach this issue from a human perspective. I am not asking you to behave like a Chinese but just like a human being, can you? This is very simple. Approach the issue

from the fundamental dignity of human beings and from the human perspective. Are the Government's fiscal management and administration based on a human perspective? Is human dignity important? Do they feel any loss of dignity merely because we chided them a little? It does not matter. So long as you walk out putting on a smiling face, is that not the same? What dignity do those street sleepers cleared by the Government have?

Do you think that scenes of "while meat is left rotten in the kitchens of the rich, thousands of people are freezing to death in the streets" can only be found in television dramas and old Cantonese films? They can be found in real life. A fortnight ago, we held a memorial service for a street sleeper aged over 70, an old lady surnamed LAI. Now, we have claimed her body, in preparation for her funeral. She was a street sleeper who made a living out of collecting carton paper. That day, it was cold and she died while sleeping in the street. Matthew CHEUNG is the Secretary for Labour and Welfare and he has heard of quite a number of such instances, has he not? He is always repeating the same things. Last year, did some 5 000 people not pass away while waiting for places in residential care homes?

Therefore, Financial Secretary and Secretary, in the past, I suggested that people aged over 65 years should commit suicide *en masse*. In that way, you would not have any burden and would no longer have to worry about those places in residential care homes, would you? In the past, we said that "rarely can a person live to the age of 70" but now, we are in great trouble because elderly people aged 80 years can be seen everywhere. This is the most terrible thing, is it not?

How much money can elderly people receive nowadays? A "fruit grant" of \$1,000 and they can have it only after the banana-throwing incident, is that not so? On this, in order to fight for the several hundred dollars for elderly people, I had to sacrifice my personal image, lambasted and despised. Elderly people are waiting for places in residential care homes till the day they die and CSSA payments are just like chicken feed. If I give you, Financial Secretary and the Secretary, \$1,800 to meet the expenses for three meals a day and transport but not mobile phone charges for getting in touch with others, can you scrap by? Do you mean that your destinies are better, while those elderly people deserve it all?

All that you are capable of doing is to engage in empty talk and so far, you are still unwilling to increase the amount of grant. In the Budget each year, only an additional month of payment would be granted to them and you think that this is already great grace. Do you know that elderly people are still living on the \$6,000 handed out last year by scrimping on expenses? This year, we asked the Financial Secretary to distribute \$8,000, but he was not swayed. The reason is very simple. Even the Civic Party and the Democratic Party do not support handing out money, so the Financial Secretary thinks that he is very justified and reckons that the Budget would surely pass without fail. This is the so-called "he will not cry until he sees the coffin (refuses to be convinced until one faces the grim reality)" and if you are not given a pummelling, you would not give in. The situation last year was different from that this year. Last year, all people pummelled him together, so the Financial Secretary had no choice but to surrender. However, this year, at the most, there are only a few opposing votes and the few votes from us. Seeing that he is in a secure position, the Financial Secretary is being arrogant. Having attained his goal, he is arrogant for he is the wolf of Zhongshan (a person who repays good with evil). Now, there is a wolf from Shandong called LEUNG Chun-ying and having achieved his ambition, he is behaving outrageously.

The Government is sitting on so much money and its term is coming to an end. Financial Secretary, why do you not do some good deeds? How would you affect the next Government? You handed out \$6,000 last year reluctantly, with grudges. If we squeeze you a little, you spew out a little. That was an irresistible trend and you had no option, so you could only distribute the money but you felt resentful, so you decided not to do so again this year because this runs counter to your fiscal philosophy. Buddy, it is said that doing this once is dirty and doing it twice is filthy, so Financial Secretary, you do not have to calculate so much. Just hand out \$8,000 properly and that is it. Why do you have to contrive so many excuses to return tens of billion dollars in rates? Had we not exposed this and had we not asked you about this, you would not have disclosed it.

Mr Albert CHAN was really terrific. He demanded the establishment of a subcommittee in the House Committee and requested more information be produced on the amounts of rates waived. It was found that among the top ten, the greatest amount of waiver was \$90 million and the one ranking 10th was also waived \$8 million. Those in the middle which were granted waivers ranging

from \$1 million to \$8 million numbered 180 and many of them were companies. Financial Secretary, did you actually return wealth to the people or to companies? When offering rates waivers, should you offer them to companies? Companies can be made up of all sorts of people and they can also be foreign companies, so whose money did you offer to them? Why offer waivers to foreigners? Do you have the boldness to tell me that among those who were offered rates waivers, there were neither expatriates nor non-permanent residents? This measure is really outrageous. You are supposed to return wealth to the people, so you should return it to individuals, but how could you return it to a company and that company could even get a waiver of \$90 million in rates. Financial Secretary, have you gone crazy? How outrageous really. How can you live up to the expectations of Hong Kong people?

I will say this once again: Now, I am speaking on behalf of the toiling public, the grassroots and socially disadvantaged groups outside the legislature rather than this group of rich and powerful people sitting in the Chamber. Please look at yourselves in the mirror. Go back and do some reckoning. Apart from getting \$12,000 in income tax reduction, do you run any business? How much in profits tax reduction can you get? How many properties do you have? What benefits have you gained from the Budget this year? Please go and do some reckoning, repent over your deeds, then put yourself in other people's shoes and think about the situation of those street sleepers and people living in Sham Shui Po who have to walk eight floors and pay \$1,200 monthly for a bedspace.

Financial Secretary, you are a government official responsible for public policies and the money is given to you by Hong Kong people, so is such a demand excessive? What fiscal philosophy and public policy are you talking about? If you do not put people first and do not look at this issue from a human perspective, do you mean you are a machine? Our Government is a machine and naturally, a machine has no humanity. Financial Secretary, I do not mean that you have no humanity, but that the machine that you represent, that machine operated by you has no humanity. We have dealings with many government departments and often, we must communicate with them. We really sympathize with those civil servants because they have to work according to guidelines and even though they are carrying a big log on their shoulders and clearly heading towards a wall, they do not know how to make a turn. There can be no helping it because they are constrained by guidelines and the system.

In the past few years, the economy has improved significantly and the Government has recorded a huge surplus each year. However, Financial Secretary, it turns out that you still managed somehow to draw the wrath of heaven and the grievances of the public, so it really baffles me. All of us are well-educated and half a century old. We are veteran members of society and the bureaucratic circle, so why have you created such a situation? Each year, the Government has a surplus and to put it more bluntly, the surplus is huge. It is said that people are "reluctant to spend money on good causes, yet willing to waste it", right? The CCF wants to ask the rich people to make donations. On this Fund, we all know that since the rich do not want to make donations, the Fund does not have enough money, so the Government cannot implement the measures that it originally hoped to.

All right, now, this Budget is being criticized, so a little bit of money is allocated to those "N have-nots", but they are required to make applications. Obviously, there are things that can be done but the Government does not want to do them. Take the transport subsidy as an example. We have told the Government a number of times that its approach would not work but it just would not listen. It always wants to sing a tune contrary to ours. This being so, why do we have to sing along with the Government? This is no reason for us to support this Budget, is there?

Today, it is not on purpose that I am speaking at a loud voice here (*The buzzer sounded*) .....

**CHAIRMAN** (in Cantonese): Mr WONG, your speaking time is up.

**MR WONG YUK-MAN** (in Cantonese): ..... rather, this is because I have seen what you people have done and this makes us feel very much ashamed.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, I do not wish to repeat my remarks made during the Second Reading debate, but having listened to the responses given by a number of Directors of Bureau to the views put forward by many colleagues, I found that they are basically taking the attitude of sticking to the old rut, without giving any positive response. Therefore, I think this debate

is greatly regrettable and disappointing. As many colleagues have pointed out, the Government has amassed a huge fiscal reserve but it has not made any long-term structural planning and instead, it has, as usual, taken the approach of "treating the head when it aches and treating the foot when it hurts". As a result, all that can be done today is giving away some petty favours or handing out some candies, without providing long-term solutions to the deep-rooted conflicts and social problems that must be addressed.

The Government has consistently adhered to a number of principles in fiscal management, one of which being public coffers must be spent on people in need. But much to our regret, the resources spent on the needy in this Budget are indeed far from generous. On the contrary, just as "Yuk-man" said just now, the rates waiver can only benefit companies and the rich, whereas the needy cannot benefit from it. There are several groups of needy people who have always hoped for government support, especially long-term support, not temporary support, but their wish has remained not granted. One of the examples is the working poor that we have always mentioned. The Secretary has also mentioned the problem of in-work poverty, but the only measure taken to tackle the problem is the transport subsidy scheme, and there is no other solution. However, the transport subsidy scheme is a failure because a very small number of people, which is less than one tenth of the number anticipated by the Government, are receiving the transport subsidy. Such being the case, what purpose can it serve? The people in need are not provided with assistance. This is why I said that the scheme is a failure.

The second problem, which concerns the elderly, is the problem of elderly retirement. Yesterday, "Yuk-man" proposed an amendment with the effect of scraping the Central Policy Unit (CPU). On this point, my view is that while the CPU has been saying that studies have to be conducted on the retirement issue in the hope that this long-standing problem of great public concern can be solved, it is regrettable that it has achieved nothing so far. Although the CPU has made some efforts, we have not seen any achievement made by it. As a result, the problem of elderly retirement has remained unsolved.

Third, the healthcare problem. Although the Government, as pointed out by Mr Fred LI earlier, has decided to inject funds into the Samaritan Fund to provide assistance to patients in buying medicine, this is not a long-term solution. We hope that in the long run, the Government can solve the problem faced by the

poor people who must rely on public healthcare services to meet their healthcare needs. But how many resources have been ploughed into this area? We hope that the authorities can hire more healthcare workers and develop more public hospitals. We also hope that the waiting time for specialist service can be shortened. But have these structural problems been solved? The Government has remained stagnant. Moreover, there is also the problem of the "N have-nots" as mentioned by many colleagues earlier on. Although it has eventually turned out that the CCF has undertaken to provide support to them, this can only alleviate the hardships faced by these people now, without solving the ultimate problem.

The ultimate problem is precisely the housing problem mentioned by "Yuk-man" earlier. But the Transport and Housing Bureau has still maintained the practice of housing allocation in three years, which is said to be reflecting the social consensus. We have time and again questioned how this consensus was reached, for it is only a policy arbitrarily implemented by the Government a number of years ago, but it is now said to be a social consensus. Even if we accept that this is the consensus of society at the time, I have asked the Secretary whether consultation can be conducted afresh to find out whether housing allocation in three years is still a consensus in society, but the Secretary has categorically rejected any further consultation.

If the Government does not conduct any further consultation and maintain the practice of housing allocation in three years, the housing production will maintain at the level of 15 000 units annually. Such being the case, how could it meet the needs of more than 100 000 people on the Waiting List? As a result, they can only live in "sub-divided units", partitioned cubicles and shacks built on rooftops. But Carrie LAM has said clearly that rooftop structures will be removed without explaining how the residents will be rehoused. I would say that this is inhuman. As we all know, these people have to move into shacks on rooftops and partitioned cubicles because they are not allocated public housing. This is the reason why they are forced to live in such dwellings. But the Government is not going to rehouse them upon clearing their homes. How can their problems be solved? All these are the structural problems that the Budget has failed to resolve.

So, the entire Budget aims only to get through by eliminating the grievances of some people, but it has not made long-term structural planning to



point out the way forward in the development of society. In fact, the development of society as a whole depends on the economic policies of the Government as well as how resources are allocated effectively in the Budget to enable the public resources of society to be distributed in a reasonable manner. The Budget has done nothing to this end. How can we give it our support?

The Neighbourhood and Worker's Service Centre is a non-government labour organization. During our contact with grass-roots workers, what we have always discussed are the various problems mentioned just now, including in-work poverty, healthcare, transport, housing and retirement problems. All these are the problems that we face day in day out. Regrettably, the Budget has failed to address these problems and particularly, it has failed to provide long-term assistance. How can we give it our support? Therefore, we maintain that we will vote against the Budget.

President, I so submit.

**MR ALAN LEONG** (in Cantonese): Chairman, I just wish to spend a few minutes to talk briefly about the reasons why the Civic Party will vote against the Third Reading later on. Although we have clearly stated these reasons during the Second Reading debate and the debate on the various amendments, with your indulgence I would like to state them once again in a simple and concise manner now.

Chairman, when consultation was held for this Budget, the Civic Party mentioned specifically that we hoped the Financial Secretary could offer more matching measures to the middle class and the SMEs specific to their needs. As a matter of fact, the Civic Party can see that since the reunification, the middle-class people have had only a duty to pay taxes but not benefited from government measures in education, healthcare, and so on.

With respect to our 10 proposals on tax concessions on this occasion, we find that the Financial Secretary has responded to most of them in the Budget. These measures include those on allowances for children, dependant parents or brothers and sisters. We affirm all this and it can also be said that this is the first time ever since the reunification that the middle-class people are treated fairly.

As for the SMEs, the Civic Party has proposed that the SME Credit Guarantee Scheme should be relaunched. The Financial Secretary has responded to this proposal in the Budget and said that the amount and percentage of the guarantee amount will be raised. The Civic Party affirms this move.

On healthcare, we have expressed our wish to the Financial Secretary that the redevelopment projects of United Christian Hospital, Kwong Wah Hospital and Queen Mary Hospital should commence soon in order that the hospital facilities can be updated to meet the needs of the people. We are happy to find that the Financial Secretary has given responses in this area.

On the Samaritan Fund, the Civic Party will certainly lend its support to it. At this time when no major changes can be made to the Drug Formulary, the Samaritan Fund can be regarded as a kind of assistance and a relief measure at times of great need. It can help people who cannot afford expensive drugs to purchase such drugs. It is a good measure and the Civic Party affirms it.

Despite the many affirmations made by us and the policies and some arrangements made by the Financial Secretary, why can we not lend our support to this Budget? Chairman, the chief reason is that budgets should be the best occasions to address the deep-rooted conflicts in our society. About this kind of deep-rooted conflicts, it is the view of the Civic Party that the unequal distribution of resources and results of economic activities has led to the ever-widening wealth gap. But we do not see any sense of direction in this Budget, nor can we find any policy mentioned therein that can address the problem such conflicts.

As for those so-called "N have-nots", many Members have discussed the problem and as seen in the comments made by the Chief Secretary in the past couple of weeks, it seems that government efforts on this problem are only minimal. There are no long-term arrangements made with respect to these "N have-nots". The Civic Party has always been talking about building a database for these "N have-nots" and even though we have proposed that this be done by the CCF, the Financial Secretary still refuses to do it or make any response.

We therefore cannot see how these deep-rooted conflicts can ever be solved, nor can we see any long-term arrangement made such as drawing up a poverty line, setting aside money for universal retirement protection or setting a

suitable level of fiscal reserves, and so on. All these important subjects are not discussed in this Budget. Under such circumstances, the Civic Party will vote against the relevant Bill relating to this Budget at its Third Reading.

I so submit.

**CHAIRMAN** (in Cantonese): There is still one Member who has indicated a wish to speak, but I cannot see him. Mr LEUNG Kwok-hung, I can now see you there. Please speak.

**MR LEUNG KWOK-HUNG** (in Cantonese): I do not mean to target the Financial Secretary by putting on a mask personating him. I hope he will not feel offended. A person should not be held responsible for an organization, or an institution. However, as the Financial Secretary, he will certainly become the target of all. Chairman, I have also advised you that you should not run for the office of the Chief Executive because you have to be utterly shameless if you wish to do so. Moreover, I hope you will be happy in future.

First of all, this is my personal feelings after seeing what happened in the contest between LEUNG Chun-ying and Henry TANG. Henry TANG said that he would give a monthly subsidy of \$3,000 to eligible elderly people. But he did not say so in the past. Now, he has made such a proposal after leaving the Government. LEUNG Chun-ying is more appalling because he queried how the funding could be granted immediately after 1 July. It is precisely time for the authorities to get the funding now. The authorities come to this Council to request funding. The authorities knew it well before coming to this Council that funding would certainly be approved for this was merely a routine like Chinese dumplings prepared the night before.

How come the Government cannot accomplish what it wants to achieve? LEUNG Chun-ying said that cash would be handed out initially but this statement was withdrawn later. Yesterday, he said that he would reach out to the grassroots. If he is bold enough, he might visit the estate where I live. I will not welcome him. But please do not find company of some local celebrities

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**CHAIRMAN** (in Cantonese): Mr LEUNG, please speak on the clauses that we are discussing.

**MR LEUNG KWOK-HUNG** (in Cantonese): ..... I understand. I just expressed my own feelings as there is nothing new at all in Members' speeches anyway.

I was impressed by two scenarios when I was a child. When I saw LEUNG Chun-ying raising his left hand that day, I thought he was Hitler and the phrases "I have won. Sailing the Seas Depends on the Helmsman." came to my mind. He really gave me that impression.

Coming back to question, Financial Secretary, you should remember that I had met with you though it was some time ago. I sought to meet you after I had forcibly entered a meeting hall where a forum discussing the replacement mechanism was being held. I told you that I would not hurl anything at Donald TSANG as long as he would set aside \$50 billion as seed money for the universal retirement protection scheme. He certainly has not done so. In a reply to me, he said that there is no consensus. But in fact he goes out every day looking for consensus. He hid away in somewhere else like those in the "Stories from Afar" to seek consensus from other people.

You will also remember all these. Let me read out my position that day, which is also the position of the League of Social Democrats (LSD): In this year's Budget, it once again shows that the Government is indifferent to the plight of the grassroots. Despite having a huge surplus of \$66.7 billion, the Government did not use it to promote long-term economic development or alleviate people's hardship. It has only intended to curry favour with the middle class and divide the community in order to relieve the pressure on its governance. The Government will spend \$28.6 billion for providing tax cuts, wavier of rates and subsidy for electricity charges to the middle class. The middle class in the highest salary bracket can save up to more than \$10,000. But these lucky people account for less than 10%. Money saved from tax rebates by most taxpayers is less than \$6,000 that they received in cash last year.

We advocate giving a cash handout because, compared to tax rebates, the middle-class families will generally benefit more and the entire community will also benefit from it. Not only will the middle class benefit, but also housewives, low-paid workers and university students who are not caught by the tax net will

also benefit. More importantly, those who are the most in need, such as the elderly people, Comprehensive Social Security Assistance (CSSA) recipients and the so-called "N have-nots" will also benefit. The "N have-nots", who do not live in public rental housing, live in "sub-divided units" without any electricity account. While they are not entitled to CSSA, their incomes do not reach the tax threshold. They live from hand to mouth. While they are still waiting for the allocation of public rental housing without knowing definitely when their applications will be successful, they live in places of poor and cramped conditions. But they have to bear exorbitant rents and high inflation. In fact, the middle-class people will be glad to buy fewer handbags so that the tax revenue can be vested in the hands of the needy. Revenue received by the Government through taxes should be put to good use and the question is where such revenue should be spent.

In the Budget, a total of merely \$5.1 billion will be set aside for implementing various social welfare measures in respect of CSSA, paying rent for public housing tenants, funding for residential care homes for the elderly and subsidies for medicines. There are also special grants such as \$10.5 billion for education, \$4.7 billion for healthcare services, and \$1.5 billion for the development of industries. In doing so, almost all the surplus of last year will be depleted. However, the Government does not see the hardships of the people. It is crystal clear that there is an inequitable distribution of wealth and imbalance of economic development which have led to problems such as disparity between the rich and the poor, lack of support for the elderly, insufficient public housing and healthcare services, as well as retrogression of education. Apart from the cash handout to the public, the LSD advocates a universal retirement protection scheme, buyback of the three tunnels and one bridge, and increase the expenditure on public housing, education, healthcare services and social welfare. Funding for all these measures, which should be implemented this year, should be set aside from the fiscal reserves of more than \$600 billion.

As for fiscal surplus before last year, we propose to set aside \$50 billion for handing out \$8,000 to each citizen. As for fiscal reserves accumulated year on year, we propose:

- (a) to set aside \$50 billion for setting up the seed money for the universal retirement protection scheme;

- (b) to set aside \$30 billion for the buyback of the three tunnels and one bridge;
- (c) as for livelihood-related services such as public housing, education, healthcare service and social welfare, we propose that the total spending on these four items should be equivalent to the scale of annual recurrent expenditure;
- (d) to set aside a one-off special provision from the fiscal reserves in this year in order to increase services which have been falling short of demand substantially. This includes a one-off special grant of \$10 billion to accelerate the construction of public housing in order to shorten the waiting time to two and a half years; a special grant of \$50 billion to increase the subsidies for tuition fees, scholarships and university places;
- (e) to set aside a special provision of \$40 billion to increase doctors, nurses and hospital beds; and
- (f) to spend \$40 billion on providing an extra allowance to recipients of CSSA, Old Age Allowance and Disability Allowance, as well as an increase in places in residential care homes for the elderly.

After deducing these six special provisions, we still have more than \$400 billion in the fiscal reserves, which is sufficient to meet the emergency need in public expenditure for 12 months. In other words, the SAR Government can meet its expenditure without any tax revenue for 12 months. Moreover, the authorities should review the effectiveness of these special provisions during the year before deciding the special provisions for next year and the approach to increase the total recurrent expenditure. Furthermore, a progressive profits tax should be formulated in this year and tax allowances should be substantially increased for implementation next year.

Chairman, this is our position. We advocate handing out cash to the people. Let me reiterate that we advocate a cash handout. We advocate redistribution of wealth so that taxes from the rich will benefit the poor rather than moving money from the poor to the rich as what the Government is doing now.

Chairman, I have been working in this Chamber for eight years. I have never seen a government with such a low morale. This is because the Government is well aware of a stanza in a poem: "Flowers fall off, do what one may. Swallows return, no strangers they". A government of an old dynasty will come to power by coterie preordination under political manipulation. Today, the incumbent Government has almost stepped down. "Swallows return, no strangers they" means that there is a government of so-called high popularity rating and a Chief Executive who has claimed that he would reach out to the masses will take office.

Chairman, what is the deep-rooted conflict in Hong Kong? This should be an issue which had been mentioned time and again by officials from Beijing who paid visits to Hong Kong and the ordinary citizens when Donald TSANG took office. Chairman, during the administration of the incumbent Government, the yearly economic growth has also been out of our expectation; and secondly, the disparity between the rich and the poor is deteriorating to such a dangerous level that the Gini coefficient has exceeded 0.553. Over the past 10 years, the wages of low-paid workers, after adjustment for inflation, have been dropping rather than rising. This reflects the distribution of wealth in Hong Kong.

Chairman, the first-round distribution by the market mechanism could be so unfair, and rent-seeking activities could be so severe. And our Government, which relies on the high land price policy, colludes with the property developers who buy expensive land to develop luxurious properties. As a result, all those who make a living by relying on residential flats, factory buildings and lands in Hong Kong have to bear an implicit tax.

Chairman, the so-called low-tax regime is a scam. Under the so-called low-tax regime, Hong Kong people suffer while property developers control everything. Chairman, will the new emperor roll out new policies? This is the emperor's new clothing, meaning that he will launch new policies. The new emperor will resent the slow development of the property sector and promote total capitalization of real estate. This is LEUNG Chun-ying's policy agenda, which will be implemented.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): Financial Secretary, would you like to speak?

(Financial Secretary indicated he did not wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1 and 2 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hand raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bills**

**PRESIDENT** (in Cantonese): Bills: Third Reading.



**APPROPRIATION BILL 2012**

**FINANCIAL SECRETARY** (in Cantonese): President, the

Appropriation Bill 2012

has passed through the Committee stage without amendment. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Appropriation Bill 2012 be read the Third time and do pass.

In accordance with Rule 70 of the Rules of Procedure, this question shall be voted on without amendment or debate.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

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

(Mr LEUNG Kwok-hung had put on a mask while the division bell was ringing)

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please put off the mask while Members are voting, though you look better in the mask.*(Laughter)*

**MR LEUNG KWOK-HUNG** (in Cantonese): President, what is important is content or quality rather than appearance. Quality is important. It is more important than quantity.

**MR FREDERICK FUNG** (in Cantonese): He looks much better in the mask.

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

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

Mr Albert HO, Dr Raymond HO, Mr Fred LI, Mr James TO, Mr CHEUNG Man-kwong, Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Ms Miriam LAU, Mr Andrew CHENG, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Abraham SHEK, Ms LI Fung-ying, Mr Tommy CHEUNG, Mr WONG Kwok-hing, Dr Joseph LEE, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Prof Patrick LAU, Mr KAM Nai-wai, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr Paul CHAN, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Mrs Regina IP and Dr PAN Pey-chyou voted for the motion.

Mr LEE Cheuk-yan, Dr Margaret NG, Mr LEUNG Yiu-chung, Mr Frederick FUNG, Ms Audrey EU, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted against the motion.

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

THE PRESIDENT announced that there were 52 Members present, 39 were in favour of the motion and 12 against it. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

**CLERK** (in Cantonese): Appropriation Bill 2012.

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

**PRESIDENT** (in Cantonese): We now resume the Second Reading debate on the Road Traffic (Amendment) (No. 2) Bill 2011.

### **ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 2011**

#### **Resumption of debate on Second Reading which was moved on 13 July 2011**

**PRESIDENT** (in Cantonese): Ms Miriam LAU, Chairman of the Bills Committee on the above Bill, will address the Council on the Committee's Report.

**MS MIRIAM LAU** (in Cantonese): President, in my capacity as Chairman of the Bills Committee on the Road Traffic (Amendment) (No. 2) Bill 2011 (the Bill), I submit the report to the Legislative Council and brief this Council on the main deliberations of the Bills Committee. The Bills Committee held a total of six meetings with the Administration and received views from the public and representatives of various trade organizations.

The Bills Committee generally supported the legislative intent of the Bill to enhance the safety of public light bus (PLB) operation. The objectives of the Bill are to amend the Road Traffic Ordinance (Cap. 374) and its subsidiary legislation to introduce a package of measures to improve the safety of PLB

operation. The safety measures to be introduced under the Bill include: Imposing a cap on the maximum speed (80 km/hour) for PLBs; requiring every PLB to be fitted with a speed limiter approved by the Commissioner for Transport (the Commissioner); requiring newly registered PLBs to be fitted with an electronic data recording device (EDRD) approved by the Commissioner; requiring applicants for PLB driving licences to attend and complete a pre-service course before issue of the licence; requiring every PLB driver to display a driver identity plate in the PLB, and so on.

The Bills Committee discussed in detail the proposed mandatory installation of EDRD on PLBs. The Administration advised that EDRD records the speed and maneuvering data of a vehicle, which would facilitate fleet management and deter PLB drivers from improper driving. The data captured by EDRD would also help investigate service-related complaints against PLB services and enhance monitoring of PLB service.

With regard to the performance specifications for EDRD in the proposed Schedule 19 under clause 15 of the Bill, the Bills Committee noted that for the purpose of device approval, EDRD suppliers would have to prove compliance of their products with the relevant industrial standards. Some members were concerned that as the Administration did not have practical experience in the application of EDRD on PLBs, it might not understand the effectiveness of the device on enhancing safety and the practical problems that might arise. In this connection, some members expressed concern as to whether it is appropriate to legislate for the proposed mandatory installation of EDRD on PLBs at this stage. The Bills Committee also expressed concern about the supply of compliant models in the market for use by PLBs.

The Administration explained that in proposing the mandatory installation of EDRD on PLBs, reference had been made to the experience of the installation and use of EDRD on franchised buses in Hong Kong, as well as the experience of the Mainland and other places. The Administration also advised that EDRD suppliers had indicated the intention to invest in the production of appropriate products for use by new PLBs. The Administration explained that if the installation and performance requirements of EDRD are not clearly specified in legislation, it would be difficult for equipment suppliers to make investment and come up with products that meet the prescribed requirements. The Administration planned to introduce the necessary subsidiary legislation to give

effect to the installation requirement for EDRD only when the Transport Department (TD) is satisfied that there are suitable EDRD models which can fully meet the various requirements specified in the legislation. The Administration expected that the new requirement may be applied to newly registered PLBs within 12 months after enactment of the Bill.

Some members considered that apart from requiring newly registered PLBs to install EDRD on a mandatory basis, the proposed mandatory installation of EDRD should also extend to the existing PLBs. The Administration advised that at present, there are 17 PLB models in use in Hong Kong, and if the entire PLB fleet should be installed with EDRD, significant time and effort would be required to verify and test the different installation solutions and anti-tampering measures before the feasibility and cost of retrofitting could be ascertained. The Administration considered it more prudent and appropriate to mandate the installation of EDRD on new PLBs first.

Besides, some members expressed concern on whether there is a genuine need for mandating the installation of speed limiter and EDRD on PLBs under the Bill in addition to the existing statutory requirement for installing speed display device. The Administration explained that different safety devices serve different functions and pointed out that speed limiters could effectively prevent drivers from driving above the set speed, which could, in turn, reduce the incidence and severity of traffic accidents. As for EDRD, the data stored in the device would be useful for fleet management, monitoring of drivers' driving behaviour and accident investigation, while the purpose of installing speed display device on PLBs would be to let passengers know the driving speed, and the sound signal of the device could effectively remind and alert drivers to drive within the set speed, properly and carefully.

The Bills Committee noted that another measure is introduced under the Bill to require all applicants for a PLB driving licence to attend and complete a mandatory pre-service course before they are issued with a PLB driving licence. Under the proposal, the TD will designate Pre-service Training Schools, and work out the Code of Practice for the school operators to follow. The Bills Committee suggested the Administration to provide some form of subsidy for applicants enrolling on the pre-service course. In response to members' suggestion, the Administration said that studies were conducted jointly with the Employee Retraining Board (ERB) to explore the possibility of taking forward

the proposed pre-service course as a Skills Upgrading Scheme Plus Course of ERB, which would be a part-time course under which trainees might be subsidized according to the prevailing fee policy of ERB.

The Committee stage amendments proposed by the Administration are minor amendments to the drafting of certain provisions. The Bills Committee has no objection to these amendments.

I now speak on the views of the transport industry.

President, the PLB trade strongly supports any reasonable measure to enhance traffic safety. This explains why the trade has taken a co-operative attitude towards the improvement measures introduced by the Government, including the mandatory installation of speed display device on PLBs and installation of passenger seat belts, and so on. Even for measures not required by the Government, such as the installation of handrails on PLBs, the trade has taken the initiative to seek permission from the Government for their installation. This is proof that the importance attached to safety by the PLB trade is absolutely no less than that attached by the Government and members of the community.

The Administration has introduced the Bill to give effect to a series of improvement measures to enhance the safety of PLBs. Although the trade generally considers that these measures will increase their burden and cost in operation and even aggravate the difficulties they face in operation, the trade has still chosen to support the legislative amendments, with a view to reducing accidents involving PLBs.

Insofar as the hardware of vehicles is concerned, vehicle owners are still able to ensure its sound operation through regular maintenance and enhancing repair. This is still within their control. But regarding drivers who knowingly break the law and recklessly neglect safety, the trade is often at its wits' end. While some PLB owners have adopted a myriad of precautions in view of the problems of drink driving and drug driving, such as selecting drivers stringently, publishing codes of practice, posting notices, and stepping up efforts to remind drivers not to drive after drinking and not to take drug, news about drivers suspected of drink driving and drug driving has still been heard from time to time. The traffic accidents caused by these "black sheep" have given a pretext to

insurance companies to constantly increase the premium. Over the past three years, the insurance premium of PLBs has never ceased to rise. For red minibuses, it has increased from \$26,000 to \$45,000, representing an increase of over 70%; and as for green minibuses, it has doubled from \$18,000 to \$37,000. In this connection, the trade hopes that the safety of PLBs can be enhanced effectively through these legislative amendments, so that while passengers' confidence can be restored, traffic accidents involving PLBs can hopefully be reduced, thereby bringing down the insurance premium for PLBs.

With regard to the mandatory improvement measures proposed under the legislative amendments, for instance, the installation of speed limiter, the TD has since early 2010 included this requirement as a licensing condition for the vehicle licence and passenger service licence certificate of PLBs. Given that the PLB licence is valid for one year, it is believed that all existing PLBs have completed the installation.

As regards the mandatory installation of EDRD, or "blackbox", on PLBs, it can to a certain extent help raise drivers' alertness of the need to maintain a good driving attitude because in the event of an accident, the data in the "blackbox" can reflect their driving attitude, whether or not they applied the brakes or were driving in excess of the speed limit at the time of the accident, and also assist the investigation in the wake of the accident, thus performing a supplementary role in ensuring driving safety. The trade does not oppose the installation of this device on newly registered PLBs.

In respect of drivers, the trade does not oppose the mandatory requirement of displaying a driver identity plate in the PLB, but with regard to the mandatory requirement that applicants for PLB driving licences must attend a pre-service course before issue of the licence, the trade is concerned about whether this will raise the threshold for entry of new PLB drivers. As the working hours are long and drivers are often tied up at work, many young people in the new generation are unwilling to work as a PLB driver. At present, recruitment of drivers has been very difficult in the trade. The average age of drivers is between 45 and 50 but newcomers are scarce. Coupled with the effect of the minimum wage, some drivers prefer to switch to other less stressful sectors. Take the green minibuses as an example, since the introduction of the minimum wage, the shortage of drivers has been worsening, with a shortfall estimated to be close to 200 drivers. According to the trade, if 20 drivers are required for operating a route, only 15

drivers can be recruited now, while the vacancies have to be filled by part-time drivers. Given the serious shortage of drivers, even if existing drivers are forced to work overtime and come to work even when they are ill, there are still cases of insufficient trips and trips being cancelled. I have, for many times, received complaints from the public about insufficient PLB service. For a route scheduled to provide a trip every 10 minutes, passengers often have to wait for over 20 to 30 minutes. This has caused inconvenience to the public, especially the elderly, the underprivileged, women and children.

Enhancing training and education for PLB drivers can indeed help improve the driving behaviour and attitude of drivers. But as it is very difficult to hire drivers in recent years, the trade is concerned that this requirement will further discourage drivers from joining the PLB trade and make the recruitment of drivers even more difficult, which will ultimately take toll on the quality of service. This is understandable. To prevent this pre-service training requirement from becoming an obstacle that deters newcomers from joining the trade, the Administration has, in response to our suggestion, actively studied the provision of a subsidy for drivers who wish to join the trade in taking the course. I hope that the details of the subsidy can be published as soon as possible and that at least, they can be exempted from payment of the course fees, in order to reduce the impact.

In the long run, the Administration should actively assist the trade to address the difficulties in the recruitment of drivers. As a matter of fact, no driver is willing to work in the PLB trade because in the final analysis, the room for development of the PLB trade has consistently shrunk because of the expansion of railway, and as the operational cost has continued to rise, the income of drivers has not been competitive enough. Under such circumstance, it is natural that the trade cannot attract new drivers. However, the Government has all along not provided assistance to address the difficulties of the trade. Worse still, the proposal made in last year's Policy Address of enabling the elderly and people with disabilities to travel on public transport at a concessionary fare of \$2 does not even cover the PLBs. Apart from deterring the elderly and people with disabilities from fully enjoying the fare concession, this has also further affected the business of the PLB trade.

Fierce competition in the public transport sector has resulted in a loss of PLB passengers. In 2011, the total public transport patronage has increased by



2.2%, but the PLB trade has registered an increase of a mere 0.6% and the red minibus trade has even recorded a drop of 3.2%. However, the patronage of the MTR has increased by 5%, which is the highest among all modes of public transport. As there is little room for a significant increase in the number of passengers and worse still, the number has even been declining, coupled with the continual increase in the operational cost and ever rising fuel cost, repair and maintenance fees and insurance premium for PLBs, the TD received fare increase applications from 330 PLB routes last year. Between 2009 and 2011, 12 PLB routes ceased operation due to operational loss. Some members of the trade said that 60% of the PLBs are suffering a loss in operation, showing that the operation of the PLB trade has been very difficult indeed.

It has been the Government's policy to encourage the public to use mass transit systems, while the PLBs serve only as a supplementary means of transport, providing short-haul feeder trips to and from MTR stations and public transport interchanges. However, in view of the further expansion of the railway network in the next decade, and with the gradual completion of the various railway links under construction, including the West Island Line, South Island Line (East), Kwun Tong Line Extension, and Shatin to Central Link, the patronage of PLBs will be further reduced and the commercial viability of PLB operation will hence be greatly undermined. Therefore, I hope that the Administration can conduct a comprehensive review of the role and functions of PLBs and draw up clear policies, so that PLBs can play the role of a supplementary means of transport more effectively.

The legislative amendments proposed today can be traced back to a serious traffic accident involving a PLB at Mong Kok Road on 12 June 2009, after which the installation of speed display device was required for the PLB trade. Subsequently, as it was found that the installation of speed display device could not reduce the incidence rate of accidents, the Administration proposed the mandatory installation of speed limiter and EDRD on PLBs and even the requirement that PLB drivers must complete a pre-service course before they can join the trade, and so on. However, traffic accidents are caused by a diversity of factors. I hope that the Administration will not single out the PLB trade and target actions only at a particular means of transport. Apart from implementing the improvement measures proposed now, the Government should also strengthen the planning of roads and step up publicity and education on road safety and

proper driving attitudes. Only when there is territory-wide support can the road safety vision of "Zero Accident" be achieved.

President, I so submit.

**MR ANDREW CHENG** (in Cantonese): President, I speak in support of the Bill. But just as what I did in response to the legislative amendments proposed by the Government to the Road Traffic Ordinance in the past, all I hope is that through giving a speech here and even by proposing amendments sometimes, I can make the Government more aggressive in what it does.

President, over the last few days you should have received my requests for moving amendments to the Bill. Unfortunately, under the Rules of Procedure, as my amendments involved public money, the Legal Adviser and the Government considered that my amendments carried a charging effect and would hence require the consent of the Chief Executive before they can be moved. I did write to the Chief Executive who did not give his consent to the amendments, which eventually made it impossible for these amendments to be moved.

In this connection, in my speech I have to focus on the amendments that I had wished to move, as well as my view on the inadequacies of the Government in handling this issue. I hope that the Government will understand them and really do better in the next few years.

As mentioned by Ms Miriam LAU earlier on, public light buses (PLBs) have been involved in some traffic accidents and road safety incidents. She, being the representative of the industry, obviously hopes to, through this debate here, find out by all means whether road safety incidents or traffic accidents are caused by one type of vehicles, which can then lead to the conclusion that road safety problems are caused by poor driving skills of certain drivers or their driving at high speed. This, I agree. But I must remind Members of one point and highlight an issue of public concern and that is, the "deadly minibuses" in society and on roads are very terrifying indeed.

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

That accident in 2009, which is the one mentioned by you, Deputy President, obliged the Government to address the problem squarely and take actions to standardize the installation of certain equipment on PLBs. But before 2009, if Members had paid attention to this matter and my memory has not failed me, it was in around 2001 or 2002 that the Panel on Transport of this Council started to put forward a wide array of views on the installation of safety measures and devices on PLBs, including the recording device, display device, speed limiter, and so on. These measures and devices have now been gradually included, but it is a pity that they are not mandatory requirements. Even up to this point in time, the electronic data recording device (EDRD) (commonly known as "blackbox") proposed in the Bill has, in my view, remained an uphill task, for its installation is required only on new PLBs. Its installation on all the 4 350 existing PLBs will, I think, remain unattainable in the foreseeable future.

Deputy President, the EDRD that we are talking about now is to be installed on PLBs, not the kind of recording device installed on spaceships. Why should its installation take so many years? These EDRDs are already installed on franchised buses and in respect of many accidents involving buses, including the accident that occurred a year or two ago at a roundabout in Tseung Kwan O which has aroused our concern, it is precisely this EDRD that enabled us to obtain sufficient evidence to charge the bus driver of dangerous driving causing two deaths and injuring 33 people. The so-called "blackbox" has already been installed on the entire bus fleet. What complexities are involved for its installation on PLBs? Do these complexities come from the pressure of the trade? The trade said that this will not constitute very great pressure to them. But it costs only \$4,000 or \$5,000, which may account for a mere 0.5% or 0.6% of their annual business turnover. Such being the case, why does the Government not proceed with the installation at a quicker pace, and why does it not take a tougher stance?

My amendment has actually divided the existing PLBs into two types. It is because according to the information provided to us by the Government, there are 17 PLB models currently in use. These PLBs, totalling 4 350 in number, are mainly of models Euro I, II, III, IV and V. The eight oldest PLBs are of model Euro I introduced in 1993, while Euro III PLBs, which total 2 357 in number, take up the largest proportion of the fleet. I first thought that my amendment was already humble as I proposed that installation be completed in two stages by putting PLBs of models Euro I, II and III under one group and those of models

Euro IV and V under another group. The latter group of models Euro IV and V cover only 661 PLBs in total. I think that as Euro IV and V are newer models which are very close to new PLBs, there is no reason why the "blackbox" cannot be installed within a short time.

Therefore, I proposed that in two years' time, or within 24 months, the installation of "blackbox" must be completed on all PLBs of these models, whereas for the remaining 3 689 PLBs of models Euro I, II and III, I proposed that the installation be completed in five years and by then the entire fleet of 4 350 existing PLBs will have a "blackbox" installed. When I put forward this view, my assistant and some friends of mine said to me, "What? Five years? It does not have to take so long, does it?" But I said, well, just let it be; if we asked the Government to quicken the pace, the officials would definitely put forward a host of reasons to say no.

I would like to say this to the Secretary. If we review the road traffic accidents involving PLBs, according to the records provided to us by the Administration for the period from the latter half of 2009 to 2011, which covers 30 months, fatal accidents involving PLBs resulted in 49 deaths and caused serious injuries to 390 people and other injuries to 2 790 people. Considering that 49 deaths were caused in 30 months and if installation will be completed for all PLBs only in five years ..... Of course, some people may say that the installation of this device on all PLBs may not necessarily mean that there will be no more casualties, or its installation on all PLBs may not necessarily reduce the incidence of accidents. But at least, the EDRD can definitely force drivers to be more careful and cautious in driving, as they know that their driving behaviour will be recorded and in the event of an accident, the data recorded will become evidence which can lead to their conviction. According to the statistics just mentioned, among the monthly average road traffic incidents, accidents involving PLBs caused 1.6 deaths, meaning that 96 human lives will be lost in five years; the number of people who may be seriously injured can be as high as 780 while 5 680 people can suffer a moderate degree of injuries. So, we face potential road safety threats every year, every month, every day.

Of course, we do not mean to tar everyone with the same brush by suggesting that PLB drivers must certainly be the chief culprit of road safety incidents. However, the relevant statistics are the blood evidence. These are the evidence, and we have obtained these statistics. The past couple of months

still saw accidents in which two PLBs crashed into each other at a crossroad and a PLB collided with a container truck, causing injuries to many people and even deaths. Therefore, the later we take actions to ..... Let me make the boldest assumption. So long as implementation is delayed, whether by one day, one month or one year, 1.6 people will die every month, adding to the loss of 96 human lives in five years.

Therefore, we must race against time. But unfortunately, while this proposal was put forward in 2001, we are still talking about how to proceed with the installation this year in 2012 and worse still, the installation will apply only to newly registered PLBs, while installation on the existing 4 350 PLBs will remain unattainable in the foreseeable future. This, I think, is unfortunate.

Deputy President, why am I so agitated? It is because very often, the undertakings made by the Government are all empty talk. An example is railway platform screen doors. The Secretary said categorically back in those years that efforts would certainly be made to achieve it, but what progress has been made? Where are the platform screen doors? How many years does it take to complete the installation of platform screen doors on the East Rail, Kowloon-Canton Railway and Ma On Shan Rail? It is a more arduous task to discuss the installation of platform screen doors and improvement of the curved platforms than landing on the moon. It is more difficult to install EDRD on PLBs than installing the same on spaceships. Why does the Government go about things in such a way? Why is it always so inefficient in handling these issues?

My amendment only proposed the completion of installation in five years and yet, the Government raised objection on the ground that public money would be involved. How much public money will be involved? It will be \$1,257,000. What sort of a government is this? All it takes is a little more than \$1 million. Of course, Members may say that this is a restriction put on us by the Basic Law, and this is precisely why the Legislative Council is criticized as the Rubbish Council, because we can do just nothing. True enough, the Basic Law has imposed a lot of restrictions on Members, making it impossible for us to do things that the Government cannot do or does not wish to do.

If we want to propose an amendment but if the amendment involves public money, the Government will not allow it and we will be required to write to the

Chief Executive to seek his consent. What nonsense is this! The Government rejected my amendment on the ground that it involves public money and told me to write to the Chief Executive. But it was the Chief Executive's personal secretary who replied on the Chief Executive's behalf, not the Chief Executive giving a reply personally. He simply paid no attention to me. That reply letter, which is very short, consists of only two paragraphs. It simply said that under my amendment, the proposed completion of the installation of EDRD within the specified time will incur an additional expenditure of some \$1.2 million annually.

Such expenditure should have been spent a long time ago. It should have been spent without me having to propose an amendment. Of course, the Administration can advance a plethora of reasons, such as the need to test many technologies accurately, and so on. If we do not exert pressure or start taking actions to deal with ..... If there is this specific requirement in the legislation, I can guarantee that to many manufacturers, this is a business opportunity, as the production of these EDRDs can be profitable, and they will certainly complete the purchase orders satisfactorily. Certainly, some people will say that there may be some discrepancies but let technology and technical know-how tackle these discrepancies.

So, I find this utterly regrettable. Even though I support the Government whenever it proposes this type of amendment, and never have I not thrown weight behind it, I always have a grudge against the Government every time I render it support. Why does the Government not do a bit more and stride farther, so as to prevent an average of 1.6 people being killed monthly which would otherwise add up to a loss of over 10 to 20 human lives a year? This is precisely the threats posed by the "deadly minibuses" to society.

I do not always like to use these words, "deadly minibuses". But if Members have the experience of taking a PLB from Mong Kok to Sheung Shui late at night with the whole journey being completed in a quarter to 20 minutes, they will feel the horrors of these "deadly minibuses". So, disregarding whether or not the Secretary can remain in office in the next Government, I must put this on record. This Council has discussed the safety of PLBs for over a decade. Although some small improvement has been made, it is still far from adequate because from the statistics provided by the Government, we can see that despite the installation of speed limiters on PLBs, the driving behaviour of some PLB

drivers has still caused the frequent occurrence of accidents. In view of this, while the installation of the speed limiter on PLBs is imperative, the "blackbox" must also be installed. Meanwhile, it is necessary to mandatorily require PLB drivers to take a training course and impose a cap on the driving speed of PLBs on roads. These requirements must be immediately applied across the board, not just to newly registered PLBs.

Let me stress once again that there are 4 350 PLBs on the roads now. Even though the number of buses doubles that of PLBs, full installation has already been completed for the bus fleets. Why is it so difficult for PLBs? I find this puzzling. Therefore, I must continuously fight for it here. I hope that the next Government will understand how terrifying "deadly minibuses" are, so that this term will not exist anymore in Hong Kong in future. Thank you, Deputy President.

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

**DR PAN PEY-CHYOU** (in Cantonese): Deputy President, my grandchild, who is just 18 months old, loves toy minibus models. In fact, we Hong Kong people very much like to take PLBs as a means of transport. In January this year, there were 3 058 green minibuses in Hong Kong, running on as many as 354 routes. The fleet of red minibuses was smaller as there were only 1 293 of them. These are the figures of December last year.

With regard to the carrying capacity, red minibuses have a daily patronage of about 380 000 while that of green minibuses is as high as 1.5 million. Therefore, PLBs are indeed a very important means of transport to Hong Kong. However, PLBs are involved in accidents very frequently. This has given cause to criticism and concern among members of the public in general. We take PLBs and yet, we are worried that accidents may occur.

What happened on 31 December last year can perhaps illustrate the problem. On that day, at a point on Kwun Tong Road near Ngau Chi Wan, a PLB, for reasons unknown, ran into a bus stand. The roof of the bus stand and the iron bars of the roadside railings even ran into the minibus. Fortunately, although the PLB was loaded with passengers, the iron bars did not strike anyone.

But still, a dozen or so people were injured, including those people who were waiting at the bus stand. On the same day, on Castle Peak Road, a PLB lost control while changing to the slow lane in order not to bump into the car in front that suddenly pulled to a stop, causing injuries to 11 people. On this day of New Year's Eve, more than 20 people were injured. This shows that accidents involving PLBs occur frequently in Hong Kong, not to mention minor accidents that never cease to happen every day.

Although the Government has implemented measures to enhance the safety of PLBs in recent years and 2011 did see less fatal accidents than 2010, the accident and casualty rates of PLBs are still higher than those of other vehicles. According to the figures for the years 2009 to 2010, the accident involvement rate of PLBs per 1 000 vehicles was 255.2 for green minibuses and 263.7 for red minibuses. Comparing with the figures of all classes of motor vehicles, the involvement rate of all classes of vehicles was only 34.3. From this we can see that PLBs are indeed involved in far more accidents than other types of vehicles.

Members of the insurance sector have pointed out that about one in four PLBs is involved in a traffic accident. No wonder the insurance premium rates for PLB have surged continuously in recent years. Over the past five years, the premium rates for green minibuses have increased by 50%, while those for red minibuses have even doubled. The premiums payable by the two types of minibuses amount to as high as \$45,000 and \$57,000 respectively. Yet, the insurance sector is still claiming that they have nearly suffered a loss despite such high premium rates.

The Road Traffic (Amendment) (No. 2) Bill 2011 (the Bill) tabled for our passage today mainly seeks to improve the safety of PLBs. The main provisions of the Bill, as explained by the Deputy President earlier on, include imposing a cap on the maximum speed (80 km/hour) at which a PLB may travel; requiring every PLB to be fitted with a speed limiter approved by the Commissioner for Transport (the Commissioner); requiring PLBs which are of any description to be specified by the Secretary for Transport and Housing to be fitted with an electronic data recording device (commonly known as "blackbox") approved by the Commissioner; requiring applicants for PLB driving licences to attend and complete a pre-service course before issue of the licence; and requiring every PLB driver to display a driver identity plate in the PLB.



The ultimate objective of the many amendments proposed in the Bill is to assure public safety, including the safety of passengers and other road users. Therefore, the Federation of Trade Unions supports the resumption of the Second Reading debate on the Bill.

In the course of the scrutiny on the Bill, I was more concerned about the proposal to mandatorily require applicants for PLB driving licences to take a pre-service course before they can be issued a licence. As many professional drivers are wage earners from the grassroots, if they are required to take the pre-service course at their own expense, it would put a heavier pressure on them in their living. I, therefore, consider that a subsidy should be granted to these drivers and the course should be provided by the Employees Retraining Board. In this way, the purpose can also be served. The Government has eventually taken on board our proposals, and we support the measures proposed by the Government.

The pre-service course aside, the fuel expenses are another factor affecting the income of professional drivers. Whether to diesel PLBs or liquefied petroleum gas (LPG) PLBs, the high fuel cost has increased the operational cost of drivers and the trade, and also affected the income of drivers.

The LPG issue is particularly worth mentioning here. In 2011, there were more than 3 100 LPG minibuses running on the roads, most of which being green minibuses. Currently, there are 62 LPG filling stations in the territory, 12 of them being dedicated LPG filling stations. These dedicated stations all enjoy a waiver of the land premium provided by the Government with the intention that the operators will pass onto consumers the concessions they enjoyed from the waiver of land premium. As the vehicles patronizing these stations are mostly business vehicles, the drivers can then purchase fuel at a cheaper cost.

However, members of the trade still consider that there is a lack of transparency in the setting of the LPG ceiling price by dedicated LPG filling stations. They also question whether or not the operators have passed the concessions onto consumers in full. In recent months, the LPG international price has increased drastically, and it is difficult for the trade to cope with it. The LPG price will be increased by \$0.70 per litre at dedicated LPG filling stations next month. This will push up the ceiling price to \$6.4 per litre, representing an increase of 12%. Since the beginning of the year, an increase of 37% has already been recorded in LPG price, which is astonishing. In addition

to the surge in LPG price, the cost of repair and maintenance has also risen in tandem with the price hikes on all fronts. But given the limited increase in the spending power of the public, drivers do not dare to increase the fares hastily. This is why many drivers have hung banners inside their vehicles on which it is written, "LPG prices keep going up, minibus-drivers turn belly-up!" This easy-to-read slogan reflects the helplessness of drivers.

Another problem concerning dedicated LPG filling stations is that they are too few in number. There are only 12 dedicated LPG filling stations in Hong Kong which can serve only 8 000 vehicles, including taxis, as projected by the Government. As the number of LPG vehicles continues to increase, the fleet of LPG minibuses has been growing in recent years. There are quite a large number of LPG vehicles nowadays, but the Government has not provided additional dedicated stations. As I said just now, dedicated stations charge lower prices than LPG filling points in non-dedicated stations, and as the price per litre can be tens of cents cheaper, professional drivers can save tens of dollars a day if they fill up their tanks at dedicated stations. This is why there are long queues at dedicated stations, and the waiting time for filling a vehicle takes 30 to 45 minutes during off peak hours and even more than one hour during peak hours.

All in all, dedicated LPG filling stations have two problems. First, the LPG price has been surging continuously; and second, drivers face difficulties in filling LPG vehicles. In this connection, a couple of weeks ago, members of the PLB and taxi trades launched a "slow drive" demonstration outside the Central Government Offices to express their concerns.

Deputy President, you, being the representative of the transport industry, certainly appreciates how difficult the situation is for the transport industry now. We very much hope that after the passage of this Bill and when the safety issues concerning PLBs have been addressed, the Government can make greater efforts to study the problems of high fuel cost and difficulties faced by drivers in filling LPG vehicles, so that people engaging in transport trades (including the PLB and taxi trades) can really access less expensive fuels, hence making their living less difficult.

I so submit.

**MR CHEUNG HOK-MING** (in Cantonese): Deputy President, it has all along been the case that PLBs are more unlikely to travel at excessive speed and cause traffic accidents than other means of transport. For PLBs that run on routes of longer distance and travel at faster speed, many members of the public have described them as "deadly minibuses", as passengers who ride on these minibuses are like risking their own lives, not knowing when they can get home. Comparing with buses and taxis, why has the PLB trade given people the feeling that it has the bad habit of speeding? This may involve some structural factors.

First, PLB drivers are often required to meet the daily target number of trips, but whether or not they can meet the target very much depends on the objective road or weather conditions. In the event of them being occasionally caught in traffic congestions, some drivers may be worried about being reprimanded or punished or their wages being deducted by the company and therefore, they may take the risk of driving at excessive speed. Some drivers may wish to do one or two more trips within a limited time in order to make more money, and this is not at all surprising. Besides, there may also be some personal factors on the part of drivers, and we do not rule out the possibility that some drivers may consider their driving skills unmatched by others, so turn the highway into their personal car racing circuit and drive at reckless speed, resulting in behaviour that puts public safety in peril.

Deputy President, neglecting the safety of the lives of passengers and other road users is absolutely intolerable to society, disregarding the reason for it. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has consistently sought the support of the Government for the installation of "blackboxes" and speed limiters on PLBs. After spending many years studying and considering these proposals, the Transport Department has finally agreed to their implementation. Although it has taken a rather long time, this is still better than nothing. The DAB welcomes the Road Traffic (Amendment) (No. 2) Bill 2011 (the Bill).

The installation of "blackboxes" on PLBs has the merit of upgrading the safety level, and it can also help address the problem of high insurance premium for the PLB trade. The trade has complained that the premium rates for PLBs are much higher than those for other means of transport. It is mainly due to the frequent occurrence of traffic accidents caused by speeding PLBs and rumours

about champerty by some unruly elements. As a result, the premium rates have not dropped but on the contrary, they have been on the rise. With regard to claims made in respect of traffic accidents, the insurance companies will normally conduct investigations according to the information provided by the police and make a judgment on who should be held responsible for the accident.

The installation of "blackboxes" or speed limiters on PLBs can enhance the awareness of safety of PLB drivers. Besides, in the event of an accident, the driver's behaviour of speeding and dangerous overtaking will be fully exposed. This can provide the insurance companies with a new source of evidence in handling the accident. According to the experience in Korea, after the installation of "blackboxes" on public vehicles, the incidence of accidents has dropped significantly, followed by a declining number of insurance claims. After the new requirements are brought into effect, the installation of a "blackbox" will apply only to newly registered PLBs, whereas the existing PLBs are not required to install it. Given that there are as many as 4 000-odd PLBs of 17 different models produced in different years in the market as many colleagues have said earlier on, a considerable amount of time will be required to complete the relevant procedures if verification and testing have to be conducted on them one by one. For this reason, the DAB supports that at this stage, the installation should be made mandatory for new PLBs first.

As PLBs have a daily patronage of as high as 1.8 million, efforts must not be slackened in the enhancement of driving safety for PLBs. After these requirements have taken effect for a certain period of time and if they proved to yield unsatisfactory results, it would be necessary for the Administration to review whether the requirements should really apply only to newly registered PLBs. Moreover, the Administration has adopted measures to promote these requirements by, for instance, encouraging insurance companies to allow room for a downward adjustment in the premium rates for PLBs installed with a compliant "blackbox", with a view to facilitating voluntary installation by existing PLBs, which will benefit society in various aspects.

Deputy President, a small group of unruly elements may tamper with the "blackbox" or speed limiter in an attempt to cover up improper driving behaviour. Although the law has provided for penalty for such improper behaviour, a multi-pronged approach has to be taken to achieve greater deterrence. First,

law-enforcement agencies must provide support by stepping up enforcement on the roads against vehicles travelling at excessive speed, while the Transport Department should, from time to time, conduct random checks on the "blackboxes" and speed limiters on PLBs, in order to prevent tampering with the proper operation of the devices.

The DAB has suggested that the Administration should make reference to the mode of safety training for drivers in other franchised bus companies and provide training on safe driving to PLB drivers from time to time, in order to remind drivers of safe driving skills and attitudes. Under the Bill, applicants for PLB driving licences are required to attend and complete a mandatory pre-service course. This will help develop correct driving attitudes in drivers who plan to join the PLB trade. The DAB welcomes this proposal.

The Administration has also actively encouraged the public to lodge reports on law-breaking drivers and improved the ways to alert drivers and lodge reports on them, such as requiring PLBs to exhibit the complaint hotline in larger fonts at a conspicuous place inside PLBs, stepping up publicity on television and in other forms of media, and so on, with a view to monitoring the safe driving attitudes of drivers more comprehensively.

With these remarks, Deputy President, I support the Bill.

**MR WONG KWOK-HING** (in Cantonese): Deputy President, I welcome that the Road Traffic (Amendment) (No. 2) Bill 2011 (the Bill) is tabled for examination by the Legislative Council today, though I think it is a "belated spring". That said, it is better late than never, as many human lives have been lost already.

Deputy President, as early as on 25 July 2009, a serious traffic accident occurred involving a minibus of route 44A running from Tuen Mun to Sheung Shui. Four people were killed and 13 injured as a result. After this tragedy, the representatives of the Federation of Trade Unions and I expressed our condolences to the families of the deceased. The minibus driver involved was also killed in the accident, leaving behind his distraught children and a grieving widow. After the occurrence of this tragedy back then, I, together with the victims' families, took up the matter with the Government and the employer. We strongly demanded that the Government should introduce enhancement

measures in respect of hardware for PLBs running on the roads, be they green or red minibuses, such as installing a speed limiter and recording device. Today, I can finally see in this Bill that the Government has taken on board some of the proposals. We also strongly demanded that the Government should put in greater efforts to review the social factors which lead to these accidents, such as the employment relationship, law enforcement by the police, and so on, and also improve its attitude and practices in this respect.

Regarding the ever increasing costs of fuels and LPG, as well as the difficulties in filling vehicles with LPG and fuels, we think that the Government cannot turn a blind eye to these problems. The Government must look at the problems comprehensively. This is why I think that this Bill today can only address one of the many aspects of road safety in relation to PLBs but cannot address all the problems. In this connection, I urge the Government to examine the issue of road safety in relation to PLBs in all directions, through multiple channels, and from multiple angles.

Deputy President, now I wish to point out why the Government absolutely cannot turn a blind eye to the point of employment relationship. While I agree with most of the comments made by the several Members just now, there was a remark made by you, Deputy President, in your speech earlier that I found unpleasant to the ear. I do not wish to repeat that remark of yours, which broadly means that those drivers are grossly irresponsible. I think there are indeed drivers whose attitudes are undesirable, but I think it is unfair to shift all the responsibility to professional drivers.

Let us look at that serious accident involving a PLB that occurred in 2009. From the investigation and analyses, we found that the problem had to do with the employment relationship in this PLB group in which the professional drivers were forced to run a specified number of trips. They were paid only a meagre basic salary, and were required to drive for a certain number of trips in each shift before they could make more money by running more trips and be given a share of the profits. For this reason, the drivers who worked in this group were forced to take risks while driving in order to make ends meet, or else they would be fired. This shows that there is such an unreasonable employment relationship behind it.

After the accident, we received complaints from drivers in this group and we, together with their families, took up the matter with the employer. We are very grateful to the group operator for accepting our views. After this tragedy, the group abolished the required number of trips and the practice of sharing out profits through the basic salary, in order for PLB drivers to be paid a more reasonable salary. I think this is the core of the problem. Therefore, I hope that the Administration and especially the Transport Department (TD), when issuing the operation licences, should monitor the employment relationship between these PLB operators and drivers, rather than just issuing the licences and then doing nothing, giving these operators a free hand to act arbitrarily and make use of their capital to oppress and exploit the drivers. This will actually create time bombs which who knows when will explode on the roads.

Therefore, it does not mean that everything is going to be fine after the passage of the Bill today. I urge the TD under the purview of the Secretary to closely monitor whether the employment relationship is reasonable when issuing licences. We must not allow employers or operators to oppress the drivers, or else this social problem cannot be resolved at root. I hope that the Secretary can pay attention to the situation.

Deputy President, I would like to discuss the second problem. While some of these PLB drivers are employed drivers, some are actually operating on their own, as they may either rent a minibus or take up the job as casual workers, and they may be self-employed. This is a fact. While some restrictions will be imposed in terms of hardware after amendments are made to the Ordinance, we must think about this: Faced with increasing fuel prices, and rising repair costs for many automotive parts, they are often living in straitened circumstances. But even though they are strained by their living, they still cannot ignore human lives, and this is a fact. The safety of passengers must be given top priority.

Having said that, the Government must think about this: They have to change shift every day, and it takes them a long time to wait at filling stations. But the Government has not provided sufficient dedicated LPG filling stations and so, they have to spend an unreasonable length of time waiting to have their vehicles filled every day, thus shortening the time of their operation. Is the Government not duty-bound to make improvement in this respect? I think the Government is duty-bound to do so, but regrettably, government departments

have adopted a fragmentary approach and worked separately in their own ways. For instance, while the regulation and licensing of PLBs are the responsibilities of the Transport and Housing Bureau, the granting of land to dedicated LPG filling stations and the issue of the right of operation nevertheless fall under the ambit of the Environment Bureau. This department does not care about the work of that department, while that department does not care about the safety issue; nor does it care about employment relationship. Therefore, I think government departments should refrain from working separately in their own ways. With regard to the plights and situation of PLB operation, I think the Government should consider conducting a comprehensive study on ways to help them.

Recently, the taxi and PLB trades have staged a mass rally to petition the Government. Dr PAN Pey-chyou has talked about this earlier, so I am not going to make any repetition. One of the issues that they strongly complained about is inadequate provision of dedicated LPG filling stations by the Government. They have to wait in long queues every day. Every afternoon we can see a long queue on the adjacent Marsh Road in Wan Chai. If the Government continues to turn a blind eye to this problem, the drivers would be driven to the wall and forced to take even stronger protest actions. I hope that the Government will think about this.

Third, I must say that I think the "blackbox" (or the recording device) should also be installed on existing PLBs. I think it is inadequate to require installation only on newly registered PLBs. In respect of the safety of PLBs, is it effective to rely only on enforcement by the police? As a matter of fact, I have seen many complaints about ineffective enforcement over the past few years, while the police have pointed out the problems of manpower shortage and unsuccessful covert operations. This precisely shows that the installation of the recording device on existing PLBs is, in fact, beneficial to operators, drivers, passengers and law-enforcement agencies of the Government, and the cost incurred is only very small. Therefore, I do not know why the Government has taken such a conservative attitude towards this issue, rather than acting decisively to fully take it forward across the board. I hope that the Secretary can give us an explanation later on.

In fact, if the Government does not accept this proposal, I wish to take this opportunity to propose that after the passage of the Bill, the Government should start keeping records of all accidents involving PLBs that occurred from today



onwards and give a report to the Legislative Council in future, in order to find out after the accidents whether or not the PLBs involved are equipped with the recording device, and also how many of them have installed it and how many have not. This way, I believe in a year's time, we will be able to see the fallacy of the Government's refusal to require the installation of the recording device across the board. Even if the Government does not accept this proposal, I hope that it can give a response and make an undertaking.

Lastly, Deputy President, I would like to point out that for PLBs currently running on the roads, disregarding whether they are red or green minibuses and whether the drivers are employed or self-employed, the drivers' income is pitiable now. As they have strongly pointed out in their recent rally, their hourly wage is even less than the existing statutory minimum wage of \$28. My heart just ached on hearing that. Under such circumstances, if these drivers who are paid at an hourly rate of less than \$28 are denied the support and care of the Government, how could they hold the steering wheel cheerfully and happily with a healthy state of mind? Should the Government not give more consideration to their plights and situation?

Deputy President, although this Bill, which is a "belated spring", will be passed later on today, I think this is just the beginning of the steps that should be taken to address road safety in relation to PLBs. Therefore, I hope the Secretary will not think that everything is going to be settled satisfactorily. I hope that the Government will enhance monitoring and law enforcement to mitigate the problem at root (*The buzzer sounded*) .....

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

**MR WONG SING-CHI** (in Cantonese): Deputy President, the Road Traffic (Amendment) (No. 2) Bill 2011 (the Bill) under our discussion today mainly seeks to look into the safety equipment of PLBs, including the speed limiter, speed display device and electronic data recording device (EDRD).

According to statistics, PLBs have an average daily patronage of 1.8 million passenger trips. There are now 4 350 registered PLBs in Hong Kong, including 1 310 red minibuses, which account for about 30% of the entire

fleet of PLBs, while the remaining 70% is taken up by the 3 040 green minibuses. Over the past few years, PLBs have taken up a stable share of around 16% in the entire public transport market. Compared with other means of transport, such as railway and buses which take up about 37% and 33% respectively, the market share of PLBs is relatively low.

Although their market share is lower than that of other mass carriers, PLBs have a higher accident rate than other types of vehicles. For example, in terms of the number of vehicles involved in traffic accidents per 1 000 vehicles in 2009 and 2010, the involvement rate for PLBs was 255 and 264 respectively, as compared to 34.1 and 34.3 for all classes of motor vehicle. This shows that the problem of accidents involving PLBs is very serious.

Let us further compare the PLB operation in 2009 with that in 2010. Here are the actual figures of traffic accidents involving PLBs: There were 1 110 cases in 2009 and 1 146 cases in 2010, showing a difference of 36 cases and an increase of 3%. Although an increase of 3% is not great, when it comes to accidents, one case is too many, not to mention 36 cases. As for fatal accidents, there were 18 cases in 2009, compared to 23 cases in 2010, showing an increase of five cases or 28%, which is nine times of the increase in the actual number of accidents involving PLBs. The severity of the problem is imaginable.

Even if we do not talk about fatal accidents, the number of minor accidents has also increased: There were 920 cases in 2009 and 978 cases in 2010, showing an increase of 58 cases or 6.3%, which is more than double the actual number of accidents involving PLBs. This shows that in order to ensure the safety of PLB operation, it is necessary to step up monitoring and improvement work. In this connection, what the Secretary has proposed this time around is very correct. That said, many people opined that the Government is a bit late in introducing these proposals and indeed, it is late. Had these measures been introduced a few years earlier, the rate of increase of those accidents would probably have been reduced, in which case human lives would not have been sacrificed.

After reading the traffic reports of the police, I found that in North District where I work, the total number of accidents involving PLBs, whether in respect of fatal, serious or minor accidents, has all registered an increase. This is indeed worrying to me and to residents in the district, and passengers are also on tenterhooks. In 2009 and 2010, the figures of accidents involving PLBs, broken

down by severity, in North District of the New Territories are as follows: For fatal accidents, there were five cases in 2009 and seven cases in 2010, showing an increase of 40%, and an increase of two cases is rather serious; for serious accidents, there were 20 cases in 2009 and 24 cases in 2010, showing an increase of four cases or 20%; for minor accidents, there were a total of 127 cases in 2009 and 157 cases in 2010, representing an increase of 24%. Comparing 2009 with 2010, there is an increase of 36 cases or 24% in the total number of accidents.

Deputy President, the series of measures proposed in the Bill aim to deter improper driving behaviour of some PLB drivers, but it is not the case that all drivers drive improperly. Mr WONG Kwok-hing said that all drivers are involved, and this is not fair. Indeed, PLBs are driven by drivers, and they do not operate automatically. Driving at reckless speed is the problem of drivers, and insofar as such improper behaviour is concerned, we do need to keep watch on it, but it is not the case that all drivers drive improperly. We do see that some drivers are most willing to give way to other vehicles and they are also courteous, just that these drivers are quite few in number.

This Bill proposes to cap the driving speed of PLBs at 80 km/hour; mandate the installation of a speed limiter on all PLBs; mandate the installation of EDRD (the "blackbox") as a basic equipment of newly registered PLBs; provide for attendance and completion of a pre-service course as a condition for PLB driving licences (which means that PLB drivers are required to take a pre-service course); mandatorily require the display of a driver identity plate in PLBs, so as to deter unscrupulous drivers from evading their responsibility and enable passengers to know who is a good driver; and provide that non-compliance with the requirements of installing a speed limiter and EDRD and interference with the proper operation of the devices will constitute an offence. As we can see in many cases, the audible signal of the speed limiter and speed display device has basically been removed. Passengers do not hear any warning when seeing a speed of 110 km or 120 km. While passengers who have fallen asleep are not even aware of it, those passengers who are awake can see the PLB driver driving at excessive speed but hear no warning and realize that the device has been tampered with.

Many PLB drivers may wish to run more trips and sometimes, they may forget about the speed limiter and keep on accelerating. But the driving habits of some PLB drivers are basically quite dangerous and these drivers would terrify

the passengers. Therefore, we hope that the speed limiter and speed display device can truly help drivers adjust their driving speed and remind them that when they are carrying passengers, they should not take risks and move towards the brink of death. This is also why many people have said that these deadly minibuses are "flying coffins", meaning that the passengers on these PLBs have already stepped on the brink of death. This description is actually quite right.

Therefore, we demand that speed limiters be installed on PLBs and the driving speed be capped at 80 km/hour. Offenders will be liable to a fine of \$4,000 and incur driving offence points. Those driving in excess of the speed limit by more than 45 km/hour will be subject to a driving disqualification of not less than six months as well as mandatory attendance and completion of a driving improvement course. I believe these measures can effectively deter improper driving habits of drivers and prevent speeding by them. In fact, the Transport Department (TD) has introduced administrative measures through new licensing conditions since June 2010 to require the installation of a speed limiter of a type approved by the TD and of a set speed at 80 km/hour on all newly registered PLBs and the retrofitting of such a device on all existing PLBs.

After the introduction of these measures, the Government still proposed to legislate for its installation in order to set out clearly in law the requirements on type approval, installation, sealing and maintenance of speed limiters, as well as the penalties for offences, with a view to facilitating the regulation of PLB operators and drivers more effectively. This is a very good initiative. I think apart from enacting legislation, the Government should also step up enforcement. There is always the view in society that a small number of PLB drivers will completely neglect the warning of the speed display device, and even when the speed display device shows that the driving speed has exceeded the set limit and gives out a warning sound, the drivers simply pay no attention to it and some have even sabotaged the audible signal device, thus making it difficult for passengers to keep watch on them. I have looked up the number of complaints lodged by the public against speeding PLBs and found that a total of 302 complaints were received in 2010, which means that in the 365 days of the year, there was an average of one case of speeding of PLBs every one day or so. Members can imagine how terrible the situation is and what is more, this is only the number of the complaints lodged. There may be even more such cases about which no complaints have been lodged.

The Government should do more in this respect by, for instance, promoting education and stepping up enforcement, and also encouraging the public to lodge reports courageously. The Bill proposes to impose a mandatory requirement for the display of a PLB driver identity plate and to empower the Commissioner for Transport to specify the size, design, construction and display position of the PLB driver identity plate and of the PLB driver identity holder in the PLB. The Bill also proposes that any person who contravenes the requirement, which means not displaying a driver identity plate, commits an offence and is liable to a fine of \$2,000. I think this measure will help passengers find out the information of unscrupulous drivers for purposes of lodging reports, which can create a deterrent effect on unscrupulous drivers.

Moreover, the Government has proposed measures against tampering of the speed limiter. The Government has said that while the TD may continue to enforce the requirements through administrative measures, in the absence of legislation, penalties may not be imposed and it will also be more difficult to abduct evidence on suspected contraventions. The Government has stated in its papers that it is an offence to tamper with the speed limiter and that offenders will be liable to a fine of \$10,000 and imprisonment for six months. This will create a deterrent effect on unscrupulous drivers.

With regard to the "blackbox", the Government said that the EDRD records the speed and maneuvering data of a vehicle, and stores data for at least 30 days. It serves to facilitate fleet management and provides evidence after the receipt of complaints, and also deters PLB drivers from improper driving. The EDRD is capable of storing the following data: date and time; actual speed of the vehicle; the last 15 records of harsh acceleration and deceleration; events of over-speeding; the last 30 records of events; and other detailed data. I believe these data can provide a good database for understanding dangerous driving by PLB drivers and hence, the unscrupulous drivers will have nowhere to hide.

Much to our regret, we invariably have to resort to legislation in order to stop PLB drivers or unscrupulous drivers from playing fast and loose with the people's lives. We certainly hope that the Government, apart from legislating to impose regulation, should step up education and promotional efforts.

Deputy President, with regard to speeding and dangerous driving of PLBs, I have just talked to the Secretary in the Ante Chamber about another series of

problems. These problems may not be related to this Bill today but Deputy President, I would like to briefly mention them here. When we are on the highway, especially as I often travel to and from the New Territories after moving to Yuen Long, we will find that some heavy-duty trucks, particularly container trucks or heavy-duty trucks driving at excessive speed. When I was driving at a speed close to the maximum speed or even in excess of it by 4 km, that is, when I was driving at 84 km/hour on a highway with a maximum speed of 80 km/hour, the heavy-duty vehicles beside me would overtake me swiftly. Deputy President, these trucks, container trucks and heavy-duty vehicles travelling at excessive speed are actually travelling improperly on the roads, and they are equally dangerous to members of the public. Of course, in view of the impending change of the Government, I wish that the Secretary will remain in office, and I hope that she will target not only dangerous driving of PLBs, but also enact legislation to ameliorate other dangers on the roads. Particularly, regulation should be imposed to combat speeding and dangerous driving of heavy-duty vehicles on the roads, in order not to affect the safety of people's lives.

Deputy President, the Democratic Party supports this Bill today. Thank you, Deputy President.

**MS LI FUNG-YING** (in Cantonese): Deputy President, like the people of Hong Kong, I am also concerned about road safety and I also have had the experience of being scared out of my wits when riding on a PLB driven by a reckless driver at night. In introducing the Road Traffic (Amendment) (No. 2) Bill 2011 (the Bill), the Government said that PLBs have a far higher incidence rate of traffic accidents than other types of vehicles and called for the making of legislation to enhance regulatory measures. All this appears to be reasonable, and there is nothing over which we should express reservation or opposition.

It is said that PLB drivers should take all the blame for the high involvement rate of PLBs in traffic accidents. Is it just this simple in reality? During our deliberations on the Bill, we focused on the driving habits and behaviour of drivers but we did not gain a full understanding of whether the current operation of the PLB trade is also a reason for PLB drivers driving at excessive speed. For instance, is the number of trips scheduled for green

minibuses reasonable? If the scheduled trips are unreasonable, drivers may be forced to drive at excessive speed. With regard to the expensive rent of PLBs, the high fuel costs, long working hours and fierce competition in the trade, are these also reasons for speeding by PLB drivers? The Bill has not touched on these underlying problems. I do not rule out the possibility that there are "black sheep" among PLB drivers who drive to the neglect of the safety of road users and pedestrians, but there are always "black sheep" in any occupation and group. In this Bill, however, all the PLB drivers are made the chief culprits and scapegoats for the high incidence rate of traffic accidents. This is my general view on the Bill.

Deputy President, with regard to the specific measures proposed in the Bill, I do not oppose the installation of the electronic data recording device (EDRD) (commonly known as "blackbox") on PLBs. When an accident unfortunately occurred, the data recorded in the EDRD can assist police investigation in finding out the cause of the accident. This, I agree. Nevertheless, the Bill has also provided that the data in the "blackbox" are available for routine checking by employers to understand the driving attitude of drivers. This will no doubt create additional pressure on the drivers while they are driving. In the Bills Committee responsible for scrutinizing the Bill, I proposed that PLB operators should download the data for investigation into drivers' improper driving behaviour only upon receipt of complaints. Unfortunately, the Government has not accepted this proposal. This is very regrettable.

Moreover, Deputy President, the Bill proposes to require applicants for PLB licences to attend a pre-service course. In principle, I do not oppose this additional requirement for drivers to attend a testing programme related mainly to driving attitudes. But I think it is desirable to combine it with the official driving test, rather than separating them into the driving test and the pre-service course. The proposals of the Bill are not very effective in developing good driving attitudes in drivers, but they will raise the threshold for entry of qualified drivers.

Lastly, Deputy President, I must reiterate that I attach great importance to road safety, but road safety has always been the joint responsibility of direct and indirect road users. While further regulation will be imposed on the driving behaviour of professional drivers, I hope that the Government will conduct an

in-depth review of the overall operation of the PLB trade, in order to introduce relevant improvement measures.

Thank you, Deputy President.

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

(No Member indicated a wish to speak)

**DEPUTY PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Transport and Housing to reply. This debate will come to a close after the Secretary has replied.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Deputy President, I must express my heartfelt gratitude to Ms Miriam LAU, the Chairman of the Bills Committee on the Road Traffic (Amendment) (No. 2) Bill 2011 (the Bill), and members of the Bills Committee for their time and efforts in scrutinizing the Bill in detail as well as the valuable suggestions made by the Bills Committee on assisting the operation of the public light bus (PLB) trade.

The Government attaches great importance to PLB operation safety and service quality. The Bill seeks to introduce a series of measures to enhance the safe operation and service quality of PLBs and provide the necessary legal provisions. These measures are mainly as follows:

Firstly, the Bill proposes to set a maximum speed of 80 km/hour for PLBs on roads. The accident and casualty rates of PLBs are higher than those of other classes of motor vehicles. Imposing a maximum speed limit for PLBs on roads is a direct way to deter the speeding behaviour of PLB drivers, thereby reducing the possibility of traffic accidents arising from speeding. We also propose to make it an offence and provide for penalties if the speed of a PLB driver exceeds 80 km/hour.

Secondly, we propose that a speed limiter shall be installed on a PLB. A speed limiter can effectively prevent drivers from driving above a set speed,



thereby reducing the number and gravity of traffic accidents. Since June 2010, the Transport Department (TD) has launched an administrative measure to require, through new licensing conditions, the installation of a speed limiter on all newly registered PLBs. Although all PLBs were already properly installed with speed limiters in late 2011, the aforesaid administrative measure has its limitation, because offenders will only violate the licensing conditions without being subject to any criminal liability. Even interfering with a speed limiter will not attract any criminal sanctions. As such, we consider it necessary to amend the legislation to mandate a speed limiter as a standard requirement for all PLBs and make the use of a PLB installed with a speed limiter which cannot operate properly or the interference with a speed limiter an offence.

Thirdly, we propose to include an Electronic Data Recording Device (EDRD) as the basic equipment of new PLBs. The EDRD helps deter improper driving behaviour of PLB drivers. The EDRD data can record such as date and time, actual speed, records of harsh acceleration/deceleration, events of over-speeding, data on service braking system status, and so on, and thus it can make and encourage a PLB driver to exercise caution throughout his driving duty. In other words, the EDRD can effectively influence the mindset of a driver throughout his driving duty. If a driver fails to drive properly, he will be subject to public complaint and even prosecution. The record in the EDRD will be used by the TD for investigation in conjunction with the operator into service-related complaints against PLB services, thus enhancing monitoring of PLB operation. If a PLB installed with an EDRD is involved in a traffic accident or an offence under the Road Traffic Ordinance, the driving data recorded by the EDRD can be used by the police for investigation purposes. Hence, the EDRD can achieve a deterrent effect and facilitate investigation, thereby facilitating the sustained enhancement of road safety.

Fourthly, the Bill proposes to require all applicants for a PLB driving licence to attend and complete a mandatory pre-service course before they are issued with a PLB driving licence. Currently, an applicant for a PLB driving licence is required to pass the relevant driving test only without the need to receive any pre-service training. It is the hope of members of the public that, through improving the driving attitude of drivers, PLB safety and service quality can be enhanced. To respond to the public aspiration, we consider it necessary to require all applicants for a PLB driving licence to attend and complete a mandatory pre-service course before they are issued with a PLB driving licence.

Fifthly, the Bill proposes to impose a mandatory requirement for the display of a PLB driver identity plate and makes it an offence if a PLB driver contravenes the requirements while a PLB is in service. This measure can facilitate passengers in ascertaining the identity of a PLB driver and filing a complaint in the event of improper driving or a driving offence committed by a PLB driver. The police may institute prosecution against a PLB driver failing to display his PLB driver identity plate for enhanced deterrent effect.

During the discussion on the Bill by the Bills Committee, a member asked whether there was still a need to mandate the installation of speed limiters, given that the requirement for PLBS to be installed with speed limiters had been given effect through an administrative measure. The administrative measure of requiring the installation of speed limiters has its limitation because offenders will only violate the licensing conditions without being subject to any criminal liability. Even such behaviour of interfering with a speed limiter will not attract any criminal sanctions. Hence, not only is the deterrent effect inadequate, the capability of the relevant authorities in investigating violations is also subject to limitation. The enactment of legislation can, on the one hand, confer appropriate enforcement power on the law-enforcement agency and, on the other, provide a clear regulatory framework for PLB operators and drivers to follow.

A member expressed concern about the need to mandate the installation of a speed display device, a speed limiter and an EDRD on a PLB at the same time. We explained to members that different safety devices would serve different functions. Speed limiters could effectively prevent drivers from driving above the set speed, and in turn reduce the incidence and severity of traffic accidents. Hence, first of all, we require through an administrative means that all PLBs be installed with speed limiters. As the data stored in the EDRD is useful for fleet management, monitoring of drivers' driving behaviour and accident investigation, we propose that all newly purchased PLBs be installed with the EDRD. The purpose of installing a speed display device on PLBs is to let passengers know the driving speed, and the audio signal of the device can effectively remind and alert drivers to drive within the set speed, properly and carefully at all times. It thus serves as an important monitoring and alerting device. Therefore, different devices serve different needs and functions.

Members of the Bills Committee had different views on whether legislation should be enacted to mandate the requirement on the installation of the EDRD

and formulate a timetable for implementation. On the one hand, some members considered that an appeal should be made to the trade through encouragement to install the EDRD and it was more appropriate to mandate the installation of the EDRD when formal trials are completed and there is supply of EDRDs meeting the requirements. On the other hand, some members considered it necessary to mandate the installation of the EDRD on all serving PLBs, in addition to newly registered PLBs.

As regards whether formal trials should be conducted before mandating the installation of EDRDs and legislation should not be enacted until there is supply of EDRDs meeting the requirements, we have already explained that there is a genuine need to enact legislation first to provide for relevant requirements to enable EDRD suppliers to have a clear understanding of the various requirements for EDRDs before the promulgation of the effective date of the legislation, so that they can revise the design of their product to ensure that it meets the relevant requirements and arrange for the testing and manufacture of the right products. If the installation and performance requirements of EDRDs are not clearly specified in legislation, it would be difficult for equipment suppliers to make investment and come up with products that meet our requirements. We will introduce the necessary subsidiary legislation for negative vetting by the Legislative Council to enable the operation of the installation requirement for EDRDs only when we are satisfied that there are suitable EDRDs that fully meet the various requirements specified in the legislation. Sufficient time will be allowed for design revision, testing, approval, production and installation of the devices before the installation requirement comes into effect.

Just now, Mr Andrew CHENG explained that he had written a letter to the Chief Executive early this week seeking permission to propose a Committee stage amendment to the Bill to mandate the installation of EDRDs on all newly registered PLBs and 4 350 serving PLBs according to a specified timetable. Should Mr CHENG's proposal be implemented, it is estimated to cost the Government an additional \$1,257,000 per annum, and in this connection, the President of the Legislative Council ruled that the Committee stage amendment has a charging effect. As a result, Mr CHENG's amendment was not submitted to the Bills Committee for scrutiny and no consultation whatsoever was conducted on the proposal therein. Furthermore, the operational and technical feasibility of mandating the installation of EDRDs on PLBs according to the timetable proposed by Mr CHENG is questionable. For the aforesaid

consideration, the Chief Executive disapproves of Mr CHENG's proposed amendment.

(THE PRESIDENT resumed the Chair)

Currently, there are 17 PLB models, manufactured on different dates during the past two decades, running on the roads in Hong Kong. They use different fuel types, and have different emission standards and engine designs. Moreover, they have different specifications regarding sensors and signal transmission, such as voltage, pulse, signal generation method and means. According to the amendment originally proposed by Mr CHENG, some 3 000 serving PLBs of 10 different models — representing approximately 70% of the total number of PLBs in Hong Kong — have to be installed with EDRDs two years later. Currently, EDRDs meeting the requirements have yet to be manufactured and approved. Moreover, suppliers would need to consider individually the actual installation solutions and anti-tampering measures for each and every combination of PLB and EDRD specifications, as well as conducting tests. Upon completion of proper testing of the EDRDs designed and manufactured by suppliers, the TD would need to process applications for type approval of different EDRD models and conduct follow-up inspections for EDRDs installed on PLBs. As it is not yet possible to ascertain the number of suppliers who can provide the right EDRDs, if the number of suppliers is very small, they might not have the capacity and sufficient manpower and resources to undertake the aforesaid design, testing and production work, not to mention carrying out installation for the serving 3 000-odd PLBs during such a short period of time. Therefore, we consider Mr CHENG's proposal of requiring all PLBs to be installed with EDRDs according to a specified timetable practically infeasible. Not only is the approach of first mandating the installation of EDRDs on newly purchased PLBs more reasonable and feasible, it will also not pose too serious a problem and excessive burden on the trade.

Bills Committee members have expressed concern that a mandatory pre-service course may affect PLB operators in recruiting drivers and attracting new-comers to join the trade, thereby exacerbating the manpower shortage problem faced by the trade, and proposed that some form of subsidy should be provided for applicants enrolling on the pre-service course. According to the

"the user pays" principle, applicants are obliged to pay for the course fees but, in response to members' request, the TD has commenced negotiation with the Employee Retraining Board (ERB) in exploring the feasibility of taking forward the proposed pre-service course as one of its courses, under which trainees might be subsidized. The TD will continue to discuss with the ERB and explore the availability of other suitable institutions for providing the pre-service course.

Some representatives of the PLB trade have expressed to the Bills Committee that the proposals in the Bill are unfair, for PLBs will thus be labelled as unsafe. In our opinion, the Bill seeks to continue to improve the safe operation and service quality of PLBs and respond to public calls for further enhancement in the safe operation of PLBs without any purpose of labelling. After the legislation comes into effect, the requirements on type approval, installation, sealing and maintenance of speed limiters and EDRDs, as well as offences relating to non-compliance with the requirements will be set out to provide a clear regulatory framework for PLB operators and drivers to follow. Penalties will also be set out clearly in legislation to deter people from violating the relevant requirements, including tampering with the devices. The pre-service course is introduced to enhance the service quality of newly recruited PLB drivers.

In our opinion, the proposals in the Bill have suitably balanced the views expressed by all sectors of the community and given full consideration to the concerns of the trade and safety of road users. I am very pleased that the Bills Committee will support the Bill. I implore Members to support the passage of the Bill, so that the relevant measures can be implemented expeditiously.

Subject to the passage of the Bill, various relevant government departments, including the TD and the Hong Kong Police Force, will immediately commence law-enforcement actions with respect to the maximum speed of PLBs, the installation of speed limiters and the display of PLB driver identity plates. As for the EDRDs, the Government will follow up with EDRD suppliers expeditiously for early completion of the design revision, testing, approval, production and installation of the devices. We will introduce the necessary subsidiary legislation for negative vetting by the Legislative Council enabling the operation of the installation requirement for EDRDs only when it is ascertained by the TD that there are suitable EDRDs that fully meet the various

requirements specified in the legislation. The relevant work is expected to be completed by the second quarter of 2013. After the passage of the Bill, the TD will select and designate pre-service training schools, and work out the Code of Practice (including the course content, the qualification of the course instructor, the facilities of the schools, the issuance of certificates, and so on) for the school operators to follow. The relevant work is expected to be completed in the first quarter of 2013.

Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Road Traffic (Amendment) (No. 2) Bill 2011 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Road Traffic (Amendment) (No. 2) Bill 2011.

Council went into Committee.

### **Committee Stage**

**CHAIRMAN** (in Cantonese): Committee stage. Council is now in committee.

**ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 2011**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Road Traffic (Amendment) (No. 2) Bill 2011.

**CLERK** (in Cantonese): Clauses 1 to 6, 9, 10, 11, 13, 14 and 16 to 20.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1 to 6, 9, 10, 11, 13, 14 and 16 to 20 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 7, 8, 12 and 15.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): Chairman, I move that the clauses read out just now be amended. The amendment to clause 7 seeks to re-arrange the order of the provisions in section 67A, so that the definition of "fitted EDRD" is placed at the beginning of

section 67A. The amendment to clause 8 seeks to incorporate the proposals put forward by the Bills Committee, including:

- (a) in the proposed sections 102I(2)(b) and 102I(10)(b), adopting a more direct way to express "is not valid except on payment of the fee payable" by deleting "not valid except" and substituting "only valid";
- (b) in the proposed section 102I(7)(a), by deleting "a designation" and substituting "the designation of a pre-service training school"; and
- (c) in the Chinese text of the proposed section 102J(6)(b), by deleting "人" to simplify the flow of the text.

The amendments to the proposed regulations 24B(10)(e) and 24C(10)(e) in clause 12 are technical in nature. We propose to revise the term "製造商" in the Chinese text as "廠名" to make it consistent with the description adopted in Cap. 374 sub. leg. E.

Lastly, the amendment to the proposed Schedule 19 under clause 15 seeks to correct a typo in the Chinese text. The aforesaid amendments are supported by the Bills Committee. I hope Members will support these amendments. Thank you, Chairman.

*Proposed amendments*

**Clause 7 (see Annex I)**

**Clause 8 (see Annex I)**

**Clause 12 (see Annex I)**

**Clause 15 (see Annex I)**

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

(No Member indicated a wish to speak)



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

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Clauses 7, 8, 12 and 15 as amended.

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 7, 8, 12 and 15 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CLERK** (in Cantonese): Schedule.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That the Schedule stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bills**

**PRESIDENT** (in Cantonese): Bill: Third Reading.

### **ROAD TRAFFIC (AMENDMENT) (NO. 2) BILL 2011**

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):  
President, the

Road Traffic (Amendment) (No. 2) Bill 2011

has passed through Committee with amendments. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Road Traffic (Amendment) (No. 2) Bill 2011 be read the Third time and do pass.

Does any Member wish to speak?

**MISS TANYA CHAN** (in Cantonese): Excuse me, may I speak on the provisions?

**PRESIDENT** (in Cantonese): The Bill is going to be read the Third time.

**MISS TANYA CHAN** (in Cantonese): Yes, but am I still allowed to speak?

**PRESIDENT** (in Cantonese): Please.

**MISS TANYA CHAN** (in Cantonese): Fine, President. Thanks to the President for giving me this opportunity to continue to speak. Just now, many colleagues have spoken on the Third Reading and clauses of the Bill. Certainly, the Bill seeks to enhance road safety, particularly having regard to previous accidents involving PLBs, in the hope of upgrading the road safety in relation to PLBs and boosting public confidence in PLB safety.

Insofar as this discussion on the entire Bill is concerned, I dare not say there is any particularly significant controversy, though we have conducted a comprehensive discussion on some details and minor issues. In particular, I recall that we approached the Government to gain an understanding of the information recorded by the "blackbox" with respect to the retrieval and use of the data recorded and how such information can facilitate the police or relevant law-enforcement agencies in instituting prosecution when evidence is adduced. Initially, I was sceptical about this approach. However, according to the Government's explanation, not only can the information recorded by the EDRD facilitate the investigation of accidents, it also meets the legislative requirements.

In other words, during the proceedings of criminal prosecutions, the information recorded in the EDRD, if deemed fit, may be taken as acceptable evidence in all criminal proceedings without any need for other evidence.

First of all, we think that if road traffic offences are involved, the data recorded in the EDRD should be used. Nevertheless, is it appropriate to extend the use of such data to all criminal proceedings? Or should the scope of application be narrowed to only enactments relevant to the Road Traffic Ordinance (RTO)? After careful consideration and the Administration's detailed explanation, however, we consider that the existing arrangement for adducing evidence can facilitate prosecutions or expedite the relevant proceedings. Having said that, I have to make it clear here that there should still be an appropriate procedure for a defendant to follow, so that he or she can adduce evidence to question the accuracy of the data in defence. Hence, we hope that a balance can be struck in this respect.

Insofar as the information recorded in the "blackbox" was concerned, we were certainly concerned about whether the information recorded therein would infringe on personal privacy. However, we learnt later that the device would not record the places passed by a motor vehicle. Instead, only driving patterns, such as information on making stops, braking, a rapid change in speed, and even indications of direction change, would be recorded. It appeared that personal privacy would not be invaded excessively as a result.

Meanwhile, we are also mindful of the speed limiter because it is installed to prevent motor vehicles from speeding and keep their speed within a safe limit. At this point in time, what is the "blackbox" issue worrying us most? After all, the "blackbox" has never been put to use on PLBs. This is why we expressed great concern the other day about their compatibility. Even if someone is willing to develop such devices and some manufacturers are willing to produce them, can the devices eventually complement with motor vehicles and whether the "blackbox" can record accurately driving patterns and speeds?

Subsequently, even the Government expressed willingness to implement the relevant requirement by way of subsidiary legislation and undertook that it would not require all newly registered PLBs to be installed with the "blackbox" until it was satisfied. I think this arrangement is more appropriate. If upon completion of proper testing, the Administration makes a special request for

PLBs to be installed ..... to our understanding, even newly procured PLBs might come in different models. I hope the Government can begin with testing PLBs of new models thoroughly by all means. It should not introduce the necessary subsidiary legislation to the Legislative Council enabling the operation of the installation requirement for the EDRD until it is satisfied that the process is smooth and the result satisfactory.

Furthermore, we are also mindful of the requirement for PLBs drivers to attend a pre-service course. Our greatest concern is course fees, though we note that a special arrangement might be made by the Government. Actually, newly recruited PLB drivers already know how to drive, but another licence has to be obtained and a pre-service course be completed for the purpose of driving PLBs. Regarding the requirement in this respect, I hope the Government can consider the relevant issues because we understand that it is actually not easy to recruit PLB drivers. I hope the Government can pay more attention to this. Nevertheless, we greatly support the proposal of requiring PLB drivers to attend a pre-service course and consider it appropriate.

On penalties, we note that sometimes PLBs drivers fail to display a driver identity plate. President, I used to take PLBs, including green minibuses and red minibuses, from time to time. I once raised the point that it might not be adequate to display just one copy of the document — as Members are aware, the body of a PLB is very long. As the driver identity plate is posted beside the driver, alighting passengers will not look at it after making payments with their Octopus Card. Is there a need for the document to be displayed in other parts of the vehicle? Although inconveniences may be caused to PLB drivers, I wish to tell members of the public that knowing the identity of the drivers and the licence plate number of the vehicles can be a kind of respect, too. Hence, I hope the Government can consider this proposal later. The Government's current proposal of increasing penalties might also cause some inconvenience to PLB drivers, but it is appropriate in the long run. Today, on behalf of the Civic Party, I indicate our intention of supporting all the amendments proposed by the Government and the Bill. Thank you, President.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Road Traffic (Amendment) (No. 2) Bill 2011 be read the Third time and do pass. 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 of the Members present. I declare the motion passed.

**CLERK** (in Cantonese): Road Traffic (Amendment) (No. 2) Bill 2011.

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

**PRESIDENT** (in Cantonese): We will now resume the Second Reading debate on the Trade Descriptions (Amendment) Bill 2012.

### **TRADE DESCRIPTIONS (AMENDMENT) BILL 2012**

#### **Resumption of debate on Second Reading which was moved on 29 February 2012**

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

**MR WONG TING-KWONG** (in Cantonese): President, on behalf of the DAB, I speak in support of the Trade Descriptions (Amendment) Bill 2012 (the Bill).

The present rules of origin are based on a "process-based" concept. The provisions of the Bill seek mainly to introduce new rules of origin for goods, that

is, the "value-based" rules, to broaden the rules of origin to tie in with the signing of agreements of trade liberalization (ATLs) between Hong Kong and various members of the European Free Trade Association, including Iceland, Liechtenstein, Norway and Switzerland, so that Hong Kong exporters may claim tariff concessions from these states.

The concept of "value-based" rules determines the place of origin of a product on the basis of the percentage of the value of the product attributed to Hong Kong or elsewhere. As the Administration has pointed out, the more likely beneficiaries are products which undergo in Hong Kong processes that add high value (such as assembly in tandem with product design) relative to the costs of the materials used for producing the goods, for example, products like watches and clocks as well as toys.

I agree that the Bill can broaden the provisions that determine the place of origin of goods to cover the "process-based" rules and "value-based" rules. The benefit is that where appropriate, it provides added flexibility. Apart from enabling manufacturers to find more business opportunities, it will also facilitate the signing of future ATLs by the SAR Government with other economies in which "non-process-based" rules are adopted.

Many friends in the business sector have told me that it has become increasingly difficult to do business. The business environment on the Mainland is not as favourable as before and the economic prospects of the European and American economies are uncertain. Although the passage of the Bill may not bring many business opportunities to the industry immediately, on a positive note, we can make preparations for the future and when the global economy improves gradually, it is hoped that ATLs can be signed with more countries, as it is believed that export trade in products of Hong Kong origin will also increase accordingly.

I think good news should be widely publicized and anything that provides a business-friendly environment should be given wide publicity. The Administration has undertaken that in the resumption of the Second Reading debate, the Secretary for Commerce and Economic Development, Mr Gregory SO, will make a public announcement on the introduction of the new rules of origin and provide relevant guidelines to the industry. Of course, these measures are indispensable, otherwise, the industry will not know about them. I

think that after the introduction of the new provisions, the Administration should actively publicize them to the industry by such means as the publication of leaflets, briefings, and so on. Apart from informing more people in the industry of them, the Administration should also explain the details and requirements. When difficulties in making applications are encountered, dedicated staff should be available to provide assistance.

With these remarks, President, I support the passage of the Bill.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): If not, I now call upon the Secretary for Commerce and Economic Development to reply. This debate will come to a close after the Secretary has replied.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I move that the Second Reading of the Trade Descriptions (Amendment) Bill 2012 (the Bill) be resumed.

In my speech moving the Second Reading of the Bill on 29 February, I mentioned the industry hope that the legislative exercise be completed expeditiously. I am most grateful to Members for their support so that we can resume the Second Reading debate within such a short period.

The place of origin of goods is a kind of trade descriptions. Under the existing Trade Descriptions Ordinance, goods produced in Hong Kong are generally required to go through the last process locally that has substantially changed the materials used.

In the Free Trade Agreement (FTA) signed between Hong Kong and the European Free Trade Association (EFTA) States in June last year, there is a set of rules of origin known as "value-based" rules. The rules are based on the



proportion of the "enhancement in value" attributable to Hong Kong in determining whether the goods can qualify for tariff concessions.

The "value-based" rules provide added flexibility for Hong Kong exports to enjoy tariff concessions more easily. Take ordinary shirts as an example. Shirts bound for the EFTA States will be able to enjoy zero tariff treatment if 40% or more of the value of the final products is attributable to the processes done in Hong Kong, even though these products may not satisfy the process-based "last substantial transformation" rules. In fact, the value-added threshold of the vast majority of other products is only 40% in order to qualify for the best preferential treatment States offered to foreign countries by the EFTA.

The "value-based" rules will be conducive to the development of industries in Hong Kong, as mentioned by Mr WONG Ting-kwong just now. It will also help attract products produced from relatively low-cost raw materials to undergo high value-adding processes, such as assembly in tandem with product design, in Hong Kong. This is also conducive to the development of related service sectors in Hong Kong, such as product design, testing and certification, as well as various professional, business and logistics services.

The Bill seeks to incorporate the "value-based" rules into the Trade Descriptions Ordinance so that traders in Hong Kong may simply mark or describe goods for export to the EFTA States or other signatories of FTA as having a Hong Kong origin.

At a meeting of the Panel on Commerce and Industry in July last year, Members welcomed the signing of the FTA by the SAR with the EFTA. While recognizing the benefits of "value-based" rules of origin, they hoped that the Government would make the industries informed of the details of various FTAs as early as possible. Mr WONG Ting-kwong expressed the same views in his speech just now.

I undertake that the Government will make announcement to the industries after signing a FTA as early as possible and incorporate it into the law by notice published in the Gazette as necessary in accordance with the requirements of the Bill expeditiously. The Government will also launch publicity and provide guidelines to the industries through various channels, so that traders can fully understand how best matching efforts can be made.

Take the FTA signed between Hong Kong and the EFTA States as an example. The Trade and Industry Department (TID) has prepared in advance the full text of the FTA for public reference in accordance with the requirements of the Bill. Now, traders can make reference to the text of the FTA by visiting the Support and Consultation Centre for SMEs at the Trade and Industry Department Tower in Mong Kok. Certainly, they can also look up further information from the website of the TID.

In order to enhance the industries' understanding of the text of the FTA, the TID will:

- (a) issue trade circular with focus on major details of the FTA for traders' reference prior to its commencement. These include information of "value-based" rules of origin, documents and records required for obtaining tariff concessions. The trade circular will be uploaded onto the TID's official website;
- (b) provide a hotline and email address to facilitate enquiries from traders. Briefings may be organized as necessary.

President, after the passage of the Bill, we will immediately notify the EFTA States that Hong Kong is well-prepared for the FTA, which will then be implemented expeditiously once confirmation has been given to us. With these remarks, I implore Members to support the passage of the Bill.

Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the Trade Descriptions (Amendment) Bill 2012 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hand raised)

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

**CLERK** (in Cantonese): Trade Descriptions (Amendment) Bill 2012.

Council went into Committee.

### **Committee Stage**

**CHAIRMAN** (in Cantonese): Committee stage. Council is now in committee.

### **TRADE DESCRIPTIONS (AMENDMENT) BILL 2012**

**CHAIRMAN** (in Cantonese): I now propose the question to you and that is: That the following clauses stand part of the Trade Descriptions (Amendment) Bill 2012.

**CLERK** (in Cantonese): Clauses 1 to 8.

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

(No Member indicated a wish to speak)

**CHAIRMAN** (in Cantonese): I now put the question to you and that is: That clauses 1 to 8 stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hand raised)

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

**CHAIRMAN** (in Cantonese): Council now resumes.

Council then resumed.

### **Third Reading of Bills**

**PRESIDENT** (in Cantonese): Bill: Third Reading

### **TRADE DESCRIPTIONS (AMENDMENT) BILL 2012**

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the

Trade Descriptions (Amendment) Bill 2012

has passed through Committee without amendment. I move that this Bill be read the Third time and do pass.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Trade Descriptions (Amendment) Bill 2012 be read the Third time and do pass.

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 hand raised)

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

**CLERK** (in Cantonese): Trade Descriptions (Amendment) Bill 2012.

### **MEMBERS' MOTIONS**

**PRESIDENT** (in Cantonese): Member's motion. Ms Miriam LAU will move a motion under Rule 49E(2) of the Rules of Procedure to take note of Report No. 15/11-12 of the House Committee laid on the Table of the Council in relation to the Rating (Exemption) Order 2012.

**PRESIDENT** (in Cantonese): According to the relevant debate procedure, I will first call upon Ms Miriam LAU to speak and move the motion, and then call upon the Chairman of the Subcommittee formed to scrutinize the relevant item of subsidiary legislation to speak, to be followed by other Members. Each Member may only speak once and may speak for up to 15 minutes. Finally, I will call upon the public officer to speak. The debate will come to a close after the public officer has spoken, and the motion will not be put to vote.

**PRESIDENT** (in Cantonese): Will Members who wish to speak please press the "Request to speak" button.

I now call upon Ms Miriam LAU to speak and move the motion.

**MOTION UNDER RULE 49E(2) OF THE RULES OF PROCEDURE**

**MS MIRIAM LAU** (in Cantonese): President, in my capacity as Chairman of the House Committee, I move the motion, as printed on the Agenda, under Rule 49E(2) of the Rules of Procedure so that Members can debate on the Rating (Exemption) Order 2012 in Report No. 15/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments.

President, I so submit.

**Ms Miriam LAU moved the following motion: (Translation)**

"That this Council takes note of Report No. 15/11-12 of the House Committee laid on the Table of the Council on 28 March 2012 in relation to the subsidiary legislation and instrument(s) as listed below:

<u>Item Number</u>	<u>Title of Subsidiary Legislation or Instrument</u>
(1)	Rating (Exemption) Order 2012 (L.N. 14/2012)."

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

**MRS SOPHIE LEUNG** (in Cantonese): President, in my capacity as Chairman of the Subcommittee on Rating (Exemption) Order 2012, I would like to report on the deliberations of the Subcommittee.

The Rating (Exemption) Order 2012 seeks to declare that all tenements are exempted from the payment of rates in 2012-2013 wholly, subject to a ceiling of \$2,500 per quarter for each rateable property.

The Subcommittee has held three meetings with the Administration. Some members generally support the Order as this will help ease the hardship and tax burden of the middle class. Some members have questioned the justifications for the rates waiver as the measure will only benefit property developers and investors and it is unfair to the "N have-nots" class who do not

benefit from any relief measures announced in the Budget. They urged the authorities to introduce more relief measures to support the disadvantaged groups.

Quite a number of members suggested that the authorities should make reference to the arrangement for the electricity charges subsidy introduced in recent years. Under the arrangement, the "unused" amount of rates concession under the ceiling of \$2,500 per quarter for each rateable property should be allowed to be carried forward for paying the rates in the future within a certain time limit. The authorities advised that the series of initiatives announced in the Budget would help ease the pressure of the economic downturn, benefitting people from all sectors of the community, including the disadvantaged. The rates waiver will benefit all ratepayers, including both property owners and tenants. This is a one-off initiative proposed by the Government in response to the overall economic situation of the relevant financial year, the burden of living of the people and the Government's fiscal position. The Government does not intend to introduce a carry-forward arrangement as it would entail additional cost of a recurrent nature. Moreover, such an arrangement might involve substantial adjustments to the accounting system of the Rating and Valuation Department (RVD), thus delaying the commencement of the Order.

Mr Albert CHAN considered that the proposed rates waiver is a form of "transfer of benefits" to private consortia. He has proposed to amend the Order to provide that the number of tenements in respect of which any one person is liable for payment of rates under the law (whether he is the owner or occupier) to be waived the payment of rates shall not exceed three.

The Subcommittee has discussed the proposed amendment by Mr CHAN. The Administration has advised that the Order is made under section 36(2) of the Rating Ordinance on the basis of tenements in the valuation and collection of rates. The authorities hold that Mr CHAN's proposed amendment could hardly be enforced in the absence of clear and certain criteria for exemption. If the proposed amendment were to be implemented, the existing billing system of the RVD will have to be substantially revamped, apart from the requirement of additional manpower. According to rough estimation, the implementation of the proposal may cost over \$60 million and will take at least one year to complete the preparatory work and relevant procedures, thus delaying the commencement date of the Order.

Some members think that Mr Albert CHAN's proposed amendment would defeat the original purpose of the rates waiver initiative as ratepayers would no longer be able to receive rates concession in a timely manner. As the proposal could not tackle the problem of owners or occupiers holding properties under different names, it might not achieve Mr CHAN's purpose of preventing the "transfer of benefits" to private consortia. Some members also consider that the proposal is not cost-effective and would entail additional manpower and public expenditure. While the majority of members are not in favour of Mr Albert CHAN's proposed amendment, they suggest that the authorities should review the intended purpose of the rates concession taking into account the views expressed by members when it plans to introduce the measure again in future.

I believe must have Members noted that Mr Albert CHAN has given notice to move a motion to amend the Order in the Legislative Council meeting today. However, the President has ruled that as Mr CHAN's proposed resolution will have charging effect under Rule 31(1) of the Rules of Procedure, the Chief Executive's written consent is required before the motion can be moved.

President, my personal views are as follows.

The rates concession is a direct relief measure for the public. It has also been an initiative proposed to the Government by all political parties and groupings. First of all, we should understand that the rates concession does not mean that the Government will give a cash handout to the people from the Treasury. Rather, it means that the Government, which has the right to collect rates from the people, does not do so in order to ease the burden of the public so that the money will remain in the people's pockets.

Some Members note that the provision of rates concession may lead to large savings enjoyed by organizations holding a number of properties. Therefore, they urge that the number of tenements to be waived payment of rates for each ratepayer should not exceed three. Such a restriction seems to be simple, but in fact, it will change the entire system of rates. In other words, it will change the previous practice of collecting rates on the basis of tenement to using the identity of the property owner as the basis. It has been a long-standing practice that rates are calculated on the basis of a tenement, regardless of whether the rates are paid by the owner or tenant, and no further questions will be asked as



long as the Government has received the rates on the tenement concerned. Now, the authorities do not have the powers to check the number of properties owned by each ratepayer. If Mr CHAN's proposed restriction is implemented, the authorities will need to amend the law in order to change the system.

We have to consider whether there is any shortcomings in this system. If there is really a problem, I do not mind that improvement be made to the system at the same time. However, if this restriction will bring more problems or become something which is "neither fish nor fowl" instead, it is not worth imposing the restriction since this will bring troubles to the public and the Government.

To impose this restriction, the Government will, first of all, have to put in a lot of manpower and resources, including the employment of over 300 staff, sending out and collecting 2.3 million forms, apart from setting up a new computer system. According to the authorities' estimate, it will cost at least \$44 million.

Second, the original purpose of providing rates concession is to benefit the public in an expeditious manner. But because of this restriction, the public will need to fill out forms in order to select which three properties to be benefited from the concession and give consent to the authorities to obtain their personal information. The public will also have to submit copies of documentary proof by post to the authorities so that the authorities can check thoroughly with the Immigration Department and the Companies Registry to ascertain how many properties they own. Apart from being troublesome, such a restriction will cause delay of a year or so before the public can benefit from the initiative.

Besides, if the public are required to provide information by filling out forms, how can we ensure that the information furnished is correct? If incorrect information is provided, should the Government prosecute the parties concerned of making false statements? Will a measure which seeks to help the public turn out to be a trap?

If such a restriction is really implemented, small businesses will be the first and most affected. They will be required to submit copies of tenancy agreements and business registration certificates to the authorities so that the latter can verify which tenements they have really rented. Meanwhile, the

authorities have to conduct a thorough check in order to ensure that they have not received rates concession for more than three properties. These measures will bring certain administrative costs to these small businesses.

As for franchise store or chain store operators which have set up branches at more than three locations, they will receive rates concession for only three of these branches. Hence, the benefit to be gained from the Budget will be greatly reduced.

We should also understand that many property owners who have rented out their flats will pay rates by themselves in order to avoid a situation where prosecution is initiated against their flats or an encumbrance is imposed on their flats due to late payment of rates by the tenants. The owners would prefer to play the role of an intermediary platform. To my understanding, The Link REIT, in its capacity as the major landlord, will collect rates from all tenants and then pay it in a lump sum to the Government. In the past, the rates concession received by The Link REIT would be apportioned to the tenants. Those who have genuinely benefited are still all commercial tenants.

There can be some other scenarios. Assuming that rates concession is granted in the next year's Budget and the new restriction that only three units can claim exemption is also implemented, how should a property owner with 10 units decide which three to receive the concession? Will tenants of the other seven units be dissatisfied with being not entitled to concession in the current year although they received such benefit in the past? They may argue with the property owner and query why their units cannot claim concession. Will this lead to endless disputes?

Besides, although the amount of rates concession may not be big, it is not small either. For some small and medium enterprises which face difficulties in their operation, the amount of money that can be saved from this rates waiver may be very important. I have even heard some small business operators say that this unexpected amount of cash is their "life-saving" money or even the key to their business turning from loss to profit. To provide rates concession means that government payments can be reduced, thereby lowering their operating costs in a direct manner. I hope Mr CHAN can appreciate the urgent needs of the public.

All of these are the implications of Mr CHAN's amendment that I can think of. There may be some other scenarios which I have not thought of. I do not mean that Mr CHAN's amendment is not feasible. But what is the purpose of causing such a big trouble to more than 2 million people and various government departments simply because of this one-off relief measure? Is it due to a deliberate intention to be at loggerheads with the public?

Some Members are very strange, and I also think that some scenarios are rather bizarre. While some Members in this Council are concerned that the expanding powers of the Government may intrude into the personal privacy of the public on the one hand — I remember that on the discussion of adding many new functions to smart identity cards years ago, Members were very much worried that the Government would be able to collect too much personal information — they now urge the Government to adopt administrative measures on the other. Their request is tantamount to giving the Government greater powers on their own initiative, so that the Government can exercise greater and more extensive control. Take the recent request for tightening up the voter registration system as an example. The authorities have received requests for giving up registration from more than 20 000 voters because they want to avoid breaching the law inadvertently. The public are afraid of getting into troubles, being inspected under the sun; they also fear the Legislative Council Members and the Government.

Therefore, I do not agree with Mr CHAN's proposal and hope that Members will carefully consider in next year's Budget consultation whether rates concession should continue to be offered as a relief measure for the people.

President, I so submit.

**MS STARRY LEE** (in Cantonese): President, the Financial Secretary has proposed to waive rates in this year's Budget. Similar to the previous financial year, all tenements will be exempted from rates payment in all quarters of 2012, subject to a ceiling of \$2,500 per quarter.

Mr Albert CHAN originally intended to move an amendment in order to add a condition that the number of tenements in respect of which any one person is liable for payment of rates to be exempted from payment of rates must not exceed three in each quarter.

The waiver of rates is a relief measure for the people proposed to the Government by most political parties in the Legislative Council. Welcomed by the general public, it is also a manageable relief measure that the Government has been implementing for years. A popular measure it may be, but in order to ensure that public moneys are properly used on the most needy groups, the Government should, prior to implementing a rates waiver, consider ways to achieve the goal, with particular care being given to those "N have-nots" class while at the same time examining whether there is a need to set a ceiling for such rates concession. If a ceiling is to be set for rates concession, at what level should it be set? Should it be limited to three tenements as proposed by Mr Albert CHAN? Do the executive authorities currently have sufficient information on hand to cope with the setting of a ceiling for rates concession? Have the public fully discussed the proposal? How much public money is involved? Can the intended purpose be achieved? All these questions call for careful consideration.

President, to my understanding, you have ruled that Mr Albert CHAN's proposed amendment has a charging effect and requires the consent in writing of the Chief Executive for it to be moved. But I would still like to take this opportunity to discuss the viewpoints of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) on the proposal.

According to the papers submitted by Financial Services and the Treasury Bureau, just the top 10 organizations enjoying the most rates concession would cost the Treasury more than \$200 million in 2012-2013. The organization that ranks the first on the list would save \$9.6 million in rates payment in a year. On the surface, holders of multiple properties are one of the biggest beneficiaries of the rates concession measure. However, according to my knowledge — incidental to what the Subcommittee Chairman, Mrs Sophie LEUNG, has just mentioned — some major organizations, such as The Link REIT, used to act as the principal landlord collecting rates payment from the tenants for subsequent settlement with the Government in one lump sum. In the past, when the Government waived rates, some of these organizations would refund the waived rates to the tenants. Therefore, even though individual organizations may have benefited from an enormous waived amount rates, we cannot assert that these big organizations are the ultimate beneficiaries.

Let us come back to the Mr Albert CHAN's amendment. He considers that the number of tenements in respect of which any one person is liable for

payment of rates to be exempted from payment of rates should not exceed three. Why did he fix the maximum number of tenements at three instead of four? Why not two? Mr Albert CHAN has not provided further statistical analysis. According to my understanding, Mr Albert CHAN fixed the maximum number of tenements at three because it could take care of most middle-class families as many of them hold three properties, that is, one for self-occupation, one for lease and one for investment.

Let us put aside the question of whether the above-mentioned situation is a common phenomenon or not. Since the ceiling involves the direct interests of many property owners, it will certainly bring about endless controversies if there are no convincing justifications for setting such a ceiling for rates concession. In this connection, the DAB opines that before enacting any proposal into law, Mr Albert CHAN needs to provide more specific justifications and in-depth analysis, in addition to allowing ample time for society to discuss the proposal. This is the first point.

Secondly, Mr Albert CHAN has proposed that the number of tenements in respect of which any one person is liable for payment of rates to be exempted from payment of rates be restricted to three. But it is doubtful whether such restriction can achieve its goal. As it is popular to hold properties under a company name and the legal procedure for property transfer is not complicated at all, any property owner can evade the relevant restriction by simply registering their properties under different names. Moreover, it is common in the market using limited companies to buy properties. This is the most prevailing practice especially among the "speculators". Therefore, if the Government implements this measure, it is inflicting a punishment in disguise on those law-abiding property owners. Obviously, it will work neither on those who take advantage of the loopholes nor the professional speculators. In other words, if it is hoped that the amount of rates waiver enjoyable by certain big landlords in the coming financial year can be reduced by passing the amendment with the ultimate purpose of achieving the proper use of public money, I am afraid the goal can hardly be achieved.

The third point is whether the executive authorities have fully mastered the relevant information at present. As pointed out by the authorities in the relevant Subcommittee, the Rating and Valuation Department (RVD) currently has only kept records of ratepayers who may be property owners, tenants or agents. To

implement the relevant proposal, the RVD firstly has to distinguish genuine property owners. It may have to require the 3 million-odd ratepayers to provide identity information in order to conduct a series of verification and updating work. Apparently, the work will involve tremendous manpower and resources. It will take at least one year, according to the Government's estimation, for any preparatory work and relevant procedures to finalize. In my opinion, the Government's estimate is over pessimistic. But if you take a look at the launch of the Scheme \$6,000 last year, you will understand the Government's pace of work. After one year, the Scheme has yet completed. In view of the Government's efficiency, you can reasonably expect the implementation of such a complicated arrangement to take at least six months to one year's time. Under this circumstance, we can hardly achieve the initial goal of alleviating people's burden through rates concession by the Government in a timely manner.

President, all in all, the proposed exemption criteria are rather arbitrary. In practice, there are loopholes open to ready abuse. I am afraid the original purpose may not be achieved. Besides, the executive authorities are totally unprepared. If we try to push through the proposal for implementation, it will only drag the long-established and efficient rates concession work, resulting in a failure to promptly relieve the people's burden. Hence, the DAB does not support the proposal.

Although we do not support the proposal, we still request the executive authorities to carefully study ways to ensure, when introducing rates concession or considering introducing any subsequent rate concession in future, that public money is used on the most needy groups. The Administration should avoid giving the people an impression that the policy is unfair. On the contrary, it should make the policy relatively fair.

President, I so submit.

**MR ALBERT CHAN** (in Cantonese): President, thanks to the several Members who spoke just now for mentioning my names and proposals a number of times. Nevertheless, some members might not understand all my arguments probably because they did not turn up regularly at the meetings. Hence, some of my arguments have been seriously distorted, and some of my finalized proposals

have been completely neglected, misinterpreted or even misunderstood, too. It is evident that these members are so careless that they arouse people's scorn.

When it comes to carelessness, the entire Legislative Council is actually careless in dealing with rates concession. I made a similar remark a couple of years ago. On the surface of it, rates waiver is a fair and reasonable measure, for the concessions enjoyed by all property holders are the same and subject to a ceiling. After further studying the relevant detailed information upon the establishment of the Subcommittee, however, it is found that the relevant figures are alarming.

The conclusion is very simple. On the surface of it, as pointed out by the two Members just now, rates concession, which is a relief measure to benefit the people, seeks to ease the pressure on members of the public. Given its surplus, the Government has decided to launch relief measures in order to tide over the hard times with them. Nevertheless, having read carefully the relevant information, I cannot but doubt the actual purposes and effectiveness of the measure. Can it really live up to the statement made by the Government at the outset and the high-sounding claim made by a number of Members, that the measure is introduced to help the ordinary masses tide over the hard times? Mrs Sophie LEUNG is very good at being lopsided, saying everyone can enjoy the same benefit. But actually, a transfer of benefits can be achieved in secret. The benefit thus transferred is far greater than the relief provided to benefit the people.

Among the top 10 cases in which the highest amounts of rates concession are received, the highest amount is \$9 billion, to be followed by \$2 billion or so. The number of cases involving \$1 billion in rates concession is even greater. All these cases involve companies. As everyone knows, quite a number of major property developers and investors in Hong Kong are holding properties through a number of companies, with different companies holding different properties. Hence, it is not rare for a major consortium to control a batch of properties or an entire housing estate through dozens of companies. Even if we request the information in an attempt to reflect the real situation, we can only know a little bit about the situation, failing to get the whole real picture. Notwithstanding this, we can already tell that even a single company can already receive \$9 billion in rates concession. If a dozen or so companies are set up under a major consortium, some of these companies may receive \$1 billion to

\$2 billion in rates concession, and some several millions of dollars. There are already 180 companies receiving \$1 million to \$8 million in rates concession. I believe at least 20%, if not 30% or 40%, of these 180 companies are owned by the four major consortia in Hong Kong. In other words, the actual amount of returns they are going to receive will run to hundreds of million dollars.

Major consortia which control the real estate hegemony and reap profits in tens of billion or even hundreds of billion dollars can even get back hundreds of million dollars through this relief measure, and yet the "N have-nots" receive nothing at all. According to Mrs Sophie LEUNG, my proposal will cause a lot of trouble when it is implemented, but why are the "N have-nots" required to undergo such a complicated procedure, as proposed by Chief Secretary Stephen LAM, of making applications to the Community Care Fund when they need support? Although the amount of money to be granted is very small, the ordinary masses have to undergo such a complicated application procedure, as if they are begging for grace. Meanwhile, major consortia can receive hundreds of million dollars in rates concession direct and transfer benefits in a recklessly and outrageously manner.

For many years in a row, the People Power has proposed that the Government should follow in the footsteps of Macao in "handing out" money direct. Actually, this is the fairest and most reasonable solution. Regardless of the presence of very rich major consortia, financial hegemony or real estate hegemony, everyone receives the same amount of money. Nevertheless, the Hong Kong Government always tends to advance some specious arguments and make use of fine rhetoric in citing excuses. Meanwhile, the royalist Members deliberately conceal the truth by "doing someone a great favour by scolding him slightly". Likewise, they will advance some specious arguments for packaging, describing this measure as a way to help small business operators and the ordinary masses, with the actual effect of enabling arrogant people with greater power, influence and wealth to reap more benefits. What is it if this is not transfer of benefits? Can this measure be considered serving the purpose of providing relief for the benefit of the people? Can you tell me whether the company receiving up to \$900 million, the highest amount of rates concession, is granted the concession for the purpose of providing relief for the benefit of the people? Will the Secretary explain later whether this company is facing bankruptcy? I am sure it is one of the 10 major consortia in Hong Kong. I had requested the Government to provide information to reveal the identity of this



company, but my request was rejected on the ground that, according to the provisions of the Rating Ordinance, such information cannot be disclosed. The Government has often concealed the fact with these specious justifications to prevent us from knowing what sort of companies these 10 companies receiving the highest amount of concession are.

Just now, several Members were actually mistaken in interpreting my proposal because, after giving consideration to the issue in a holistic manner, I have eventually come up with an amendment to the rates concession proposal to the effect that the latest registered information with the Rating and Valuation Department (RVD) should be used. The RVD has explained to us that the requirements of the Rating Ordinance are quite weird because, according to such requirements, the ratepayers are not necessarily the owners or occupiers, for non-occupiers are allowed to make rates payments, too. There was no problem as long as someone was willing to make rates payments. Hence, of the more than 1 million records of registered ownership maintained by the RVD, more than 10 000 have no names, whereas the remaining records bear the name of a person or a company.

As such, I have eventually come up with the proposal that, according to the registered records of the RVD dated 1 April this year, only up to three of the tenements registered under the same name can enjoy rates concession, thereby substantially reducing the manpower required by the RVD. I therefore consider the Administration's remark that an additional \$40 million will be incurred mistaken, distorted and misleading. Nevertheless, President, you are satisfied with the Government's explanation that an additional \$400 million will be incurred, though I consider this "false accounting". Given that more than 1 million registered cases kept by the RVD bear the names of owners, this means only some 10 000 registered cases are required to be handled. Certainly, how these cases should be handled is an issue. This approach can also be described as unfair. But is it fair for a company to be granted more than \$90 million in rates concession, and can the measure be described as genuine relief for the people? In this Chamber, how many Members are entitled to hundreds of thousand dollars in concession? Let me point randomly at Members on my left or right side. Although there are currently many empty chairs, a Member I randomly pointed at may be granted \$100,000 to \$200,000 in rates concession. Have they ever declared their interest?

Now, I have to declare my interest. The Proletariat Political Institute, co-owned by Yuk-man and me, has a property, and so has my wife. However, my only property is the one under the Proletariat Political Institute, a property jointly owned by Yuk-man and me. Many of the Members in this Chamber, however, can enjoy \$100,000 to \$200,000 in rates concession, yet we rarely hear them declare their interest. There seems to be a need for the relevant committee to investigate the declaration of interest by Members in this connection because Mr Abraham SHEK had been censured over this for failing to declare his directorship during the discussion on the Kowloon-Canton Railway Corporation and the MTR Corporation Limited years ago.

We can find out by spending a little time to look up the information declared by Members of this Council that quite a number of Members can benefit from the rates concession measure, including some pan-democratic Members and Members holding 10 to 20 properties, and that tens of thousand to hundreds of thousand dollars are involved. On the contrary, the "N have-nots" have to submit applications again as if they are begging for grace before they have a chance to receive some sort of support. But still, quite a number of people not meeting the relevant criteria cannot benefit from the Government's \$100 billion surplus, thereby making it impossible for the Government to genuinely provide relief for the benefit of the people. As the saying goes, the rich get even richer and the poor even poorer. People with wealth, power and influence can receive even more benefit from this Budget so long as they maintain a cordial relationship with our senior officials, particularly "corrupt Donald TSANG".

President, the fact that I have failed to get consent to propose my amendment fully reflects several major issues. Firstly, the Legislative Council is careless in its scrutiny of the Budget. This study conducted by the Subcommittee set up by us has exposed a number of problems. However, members of the public still have very little knowledge of the truth owing to the Government's approach of concealing the disclosure of information in many ways and its citing of numerous so-called legislative provisions as excuses for refusal to make disclosure.

Secondly, on the scrutiny by the Finance Committee or the Legislative Council of use of public funds, the parameters drawn up by the Basic Law are unreasonable or ridiculous, so to speak. Now we are talking about the scrutiny

and exemption of \$11.7 billion. From the perspective of public finance, this outstanding receivable sum of \$11.7 billion can recur every year. Had this Subcommittee not been set up to conduct a study, we would simply not have conducted any scrutiny of the sum even if it was considered outstanding. Over the past years, the relevant proposal would have been passed together with the entire budget in one go. No detailed analyses or studies would be conducted to find out the persons who would be benefited and the areas considered unfair and unreasonable, even though it could be said that the reduced revenue was actually part of the expenditure of public funds.

Over the years, I have strongly criticized on many occasions the Hong Kong Government for the slipshod contents of the documents prepared for the handling of public policy issues and its lack of in-depth analytical information, as well as expressing regrets for all this. The approach of offering rates concession has precisely reflected the situation of the executive as a whole. I believe senior officials of government departments, especially those responsible for financial and monetary affairs, are well aware of the gravity of transfer of benefits. However, they might agree this is the Government's responsibility, given the rule of Hong Kong by plutocrats. All the persons they know and have contact are tycoons from the financial and monetary sectors or the property sector. I also believe the circles and people who have contact with their intimate friends and relatives are arrogant, wealthy people or the rich and the powerful. Mrs Sophie LEUNG might be one of them, too. Hence, they have little contact with the grassroots living in "sub-divided units" or cubicle apartments because they are actually poles apart in terms of their living and social circles.

Hence, when the Government announces rates and tax concessions, they will definitely sing praises of the Government and hail the fairness and greatness of the budget. Let us look at the several Members who spoke just now. They still considered it a relief measure rather than a transfer of benefits in the form of a \$90 million gift to a certain consortium. This is an issue of values. Grass-roots people with no money and power will have no say at all. On the contrary, people with higher social status and greater influence and wealth, once getting into contact with the rich and the powerful, may have greater influence on them.

These might be precisely the deep-rooted conflicts mentioned by Premier WEN Jiabao, and such conflicts have been fully exposed by this rates concession

policy and in the speeches delivered by a number of Members. Hence, these problems, if remain unresolved, will only exacerbate the conflicts involving Hong Kong's way forward and intensify the confrontations between classes and community groups. Should that happen, disturbance may not be far from us.

I must point out once again how ridiculous this issue is. However, there is nothing we can do now, and we do not stand any chance of overturning this decision. I can only hope that such blatant measures of transfer of benefits to major plutocrats will not be found again in the budget next year.

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

**MR LEE CHEUK-YAN** (in Cantonese): President, on behalf of the Labour Party, I express reservations about the rates concession measure. Certainly, there are no problems with exempting small businesses from rates payment, but actually there are two problems which warrant consideration by the Bureau.

The first problem is that there is simply no such thing as collection of rates. Over the past five years, no rates have ever been collected by the Government. Will this lead to the people having some sort of reasonable expectation of not needing to make rates payments in the future? In Hong Kong, the budget has been distorted to such a state that members of the public no longer contemplate what people-friendly measures will be launched by the Government, particularly through making more investment on the social, education, social welfare and healthcare fronts. Instead, they will only ask the Government what "benefits" the Government will offer in the current year. The Government should bear a major share of the responsibility in its administration in causing members of the public to have such a mindset. Hence, it is worth reflecting that the Government has, in our opinion, caused members of the public to have such an expectation rather than guiding them in contemplating how best all sorts of social investments can be made properly.

The second issue is that this rates concession measure is simply benefiting major consortia, because these consortia and major property developers hold the largest number of properties. The more the properties one holds, the more rates concession one will enjoy. We often describe Hong Kong as a society with

uneven distribution of wealth and disparity between the poor and the rich. Why should we still create, by way of our fiscal strategies and measures, such a phenomenon of uneven distribution of wealth and disparity between the poor and the rich? This is why the Labour Party does not oppose exempting small businesses and owners in general from rates payments. But we oppose granting concession to major owners of an indefinite number of properties as well as major property developers because of their considerable gap with the concessions granted to owners with only one self-occupied property. As we consider this a form of unfair distribution of wealth, we will abstain from voting to indicate our disapproval of this measure. Nevertheless, we do not oppose granting rates concession to small businesses.

Meanwhile, we consider that the Government should strive for greater fairness rather than seeking simplicity and convenience in implementing any concessionary and relief measure. The Administration should consider carefully how best relief can be offered to the needy. Actually, there is no need to give excessive relief measures and benefits to those "predators". This is precisely what makes this rates concession measure disappointing, for it is those "predators" that will again be benefited in the end.

President, we must state our aforesaid stance here. Moreover, we think that there were actually serious problems with John TSANG's entire fiscal strategy in his previous handling of fair distribution of wealth. I wonder if he will still perform this task in the next-term Government. Nevertheless, we will have to observe again if the next-term Government will continue to adopt the same method. Thank you, President.

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

**DR RAYMOND HO** (in Cantonese): President, first of all, I have to declare that I own a self-occupied flat.

President, last month the Financial Secretary announced in the Budget the proposal of waiving rates for 2012-2013 wholly, subject to a ceiling of \$2,500 per quarter for each rateable property. I support the proposal because rates concession will help alleviate the hardship and tax burden of the middle class.

During the deliberations of the Subcommittee on the Rating (Exemption) Order 2012, some members expressed the view that the proposal is not fair to the "N have-nots" class who do not benefit from any relief measures announced in the 2012-2013 Budget. But I do not agree because the middle class in Hong Kong, who account for at least 20% to 30% of the local population and represent the majority of Hong Kong taxpayers in terms of number, seldom received any government assistance or support in the past. Under the current economic situation, the proposal to rates waiver will certainly help ease their financial pressure. To comply with the principle of fairness, policies of the Government should take care of all sectors of society.

On the other hand, a member holds that the proposal of rates waiver is a form of "transfer of benefits" to private consortia and has therefore proposed an amendment to the Order to prescribe that the number of tenements in respect of which any one person is liable for payment of rates under the Rating Ordinance to be exempted from payment of rates shall not exceed three in each quarter. The authorities have indicated that the implementation of the amendment will entail a lot of complicated arrangements and administrative work, apart from the need of setting up a new computer system which will incur huge administrative costs.

According to information provided by the Government, the implementation of this proposal may cost over \$60 million and will take at least one year to complete the preparatory work and relevant procedures. Having taken into account the complexity and difficulties involved in the implementation of the proposal, I consider this unnecessary. Under the proposal, a maximum of three properties owned by the same owner will be exempted from rates payment. As for other properties which have been rented out, the individuals or business operators who are liable for payment of rates in accordance with the tenancy agreements cannot benefit from the proposed arrangement. This will certainly cause confusion to the existing arrangement.

Besides, given that complicated administrative work will be time consuming, the member's proposal may delay the commencement date of the Order. As a result, rates concession cannot be provided to all ratepayers with effect from 1 April 2012. In my opinion, rates concession, as a one-off relief measure provided by the Administration in response to the overall economic

situation of the relevant financial year, should be implemented expeditiously for the benefit of the people.

President, I so submit. Thank you.

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

(Mrs Sophie LEUNG stood up)

**PRESIDENT** (in Cantonese): Mrs Sophie LEUNG, you have already spoken on this motion. Members can speak only once on it.

**MRS SOPHIE LEUNG** (in Cantonese): I know. I just want to make a declaration. Just now I forgot to declare my interest in respect of rates. Thank you.

**PRESIDENT** (in Cantonese): Members have already spoken. I now call upon the Secretary for Financial Services and the Treasury to speak. This debate will come to a close after the Secretary has spoken.

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, first of all, I would like to thank Mrs Sophie LEUNG, Chairman of the Subcommittee on Rating (Exemption) Order 2012 (the Subcommittee), all members and the staff of the Legislative Council Secretariat for their efforts so that the deliberations can be completed successfully.

The Rating (Exemption) Order 2012 (the Order) was submitted to the Legislative Council on 8 February this year. The Subcommittee has held a total of three meetings. The Order seeks to implement the rates concession proposed by the Financial Secretary in the 2012-2013 Budget. The relevant measure is one of the several one-off relief measures to ease the hardship of the people in a timely manner proposed by the Financial Secretary after taking into account the views received during consultation on the Budget, the current economic

environment and the Government's fiscal position. Under this relief measure, the rates payable for 2012-2013 will be fully waived, subject to a quarterly ceiling of \$2,500 per tenement. It is estimated that nearly 90% or 2.7 million of tenements will be fully exempted from rates in the forthcoming financial year, while the remaining tenements will fully benefit from the concession of \$2,500 per quarter.

I would like to thank Members for their views on the implementation of rates concession and take this opportunity to respond to the views of Mr Albert CHAN.

According to Mr CHAN's proposal, the number of tenements in respect of which any owner or occupier is liable for payment of rates to be exempted from payment of rates must not exceed three in each quarter. The proposal has been discussed in detail at the meeting of the Subcommittee.

The existing rating system of Hong Kong is the same as that in other parts of the world. Under the Rating Ordinance (the Ordinance), the valuation and collection of rates have always been conducted on the basis of the tenements concerned. If Mr CHAN's proposal is implemented, the long-standing practice of granting rates concession on the basis of tenements will be fundamentally changed to a new system which will operate on the basis of the owners or occupiers, subject to a restriction on the number of tenements to be exempted according to the identity of the owners or occupiers.

First of all, I would like to point out that at the meetings of the Subcommittee, Members' views were much diverse in respect of whether the concept of granting rates concession should be changed from one which is based on the tenements to one which is based on the owners or occupiers.

Secondly, if Mr CHAN's proposal is implemented, it would involve a lot of problems in terms of policies and operational aspects.

Just now, Ms Starry LEE indicated in her speech her agreement that the implementation of Mr CHAN's proposal in the current year would lead to a lot of operational problems which are difficult to solve. However, she has also urged the Government to study how modifications can be made so that we can move in the direction proposed by Mr CHAN if relief measures are considered in future. Therefore, I would like to take this opportunity in particular to explain what



problems in terms of policy and operation will emerge if we move in this direction.

Under the existing Ordinance, a ratepayer can be the owner or occupier of the tenement, or the agent of the owner or occupier. Therefore, the Rating and Valuation Department (RVD) has no legal basis to require the ratepayers to identify whether they are the owners or occupiers of the tenements or their agents. Therefore, the RVD does not have any information in this regard and certainly does not know whether the same person in fact owns a number of tenements in different capacities and has entered into different tenancy agreements or agent arrangements.

Therefore, if Mr CHAN's proposal is to be implemented, the RVD has to send more than 2.3 million forms to all ratepayers in order to obtain their identity information and consent to cross-check the data held by other government departments before granting rates concession. Meanwhile, if there are more than three tenements under the name of an owner or occupier, the RVD will also request the owner or occupier to indicate his or her preference and to elect the tenements which will enjoy rates concession. This procedure will be very much time consuming. In order to implement Mr CHAN's proposal, the RVD will need to spend a great deal of human resources and capital input, thereby incurring a large amount of extra public spending.

Assuming that in the aforesaid procedures, some ratepayers refuse to sign any letter of consent or do not make any response, the RVD will not be able to start the cross-checking process. In order to prevent abuse, omissions or false statements, the authorities may need to enact legislation to provide that all ratepayers are required to sign a letter of consent allowing the RVD to verify their identities and are subject to criminal penalties in case of false declaration.

Most importantly, given that the implementation of the arrangement will involve complicated preparatory work, the rates concession cannot be implemented in the 2012-2013 financial year. Thus, ratepayers cannot benefit from this relief measure in a timely manner.

Apart from the difficulties in implementation and the impact on ratepayers as mentioned above, there is also considerable arbitrariness and gray area in respect of the proposed scope of exemption. For instance, on what criteria

should the threshold of the three tenements be set? When there are more than three tenements under the name of an individual owner or occupier, how should tenements be elected for enjoying rates concession? The proposed option cannot deal with a situation where the owner or occupier has registered the name of other person or company as the ratepayer of his or her tenement to circumscribe such a restriction. As a result, it will totally defeat the intended purpose of the restriction. In order to plug the loophole, the authorities may need to consider abolishing the arrangement of agents under the existing rating system.

All in all, the proposed option cannot clearly and precisely define in law the criteria of the scope of exemption on the one hand, and may involve significant practical difficulties in implementation on the other. Apart from causing inconveniences to ratepayers, it is also not cost-effective.

The Administration has explained in detail our analysis in the papers submitted to the Subcommittee and at its meetings. The President of the Legislative Council has also ruled earlier that the proposal has a charging effect.

President, I would like to reiterate that the implementation of rates concession is consistent with the views received by the Administration during the consultation on the Budget. The smooth and timely implementation of the Order is a response to the public aspiration of obtaining the rates concession expeditiously.

Thank you, President.

(Mr Albert CHAN stood up)

**PRESIDENT** (in Cantonese): Mr Albert CHAN, what is your point?

**MR ALBERT CHAN** (in Cantonese): President, I have to clarify because both the Secretary and Members, including the last response made by the Secretary just now, have misinterpreted my proposal.

President, if you remember, in the second paragraph of the letter addressed by me to you on 22 March 2012, I have clearly set out my proposal, stating .....

**PRESIDENT** (in Cantonese): Mr CHAN, the debate has already come to a close.

**MR ALBERT CHAN** (in Cantonese): No, President, because the interpretations were wrong .....

**PRESIDENT** (in Cantonese): You can only make a brief clarification if you think that the Secretary has misinterpreted the content of your speech.

**MR ALBERT CHAN** (in Cantonese): President, just a brief explanation. I have clearly pointed out that the rates waiver is based on the names, that is, the names of persons, recorded on the register kept by the Rating and Valuation Department. Such being the case, the Secretary's earlier remark about technical problems was completely mistaken. He has distorted my remarks.

**PRESIDENT** (in Cantonese): The debate has now come to a close. Under Rule 49E(9) of the Rules of Procedure, I will not put any question on the motion.

#### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 18 April 2012.

*Adjourned accordingly at twenty minutes past Three o'clock.*

## Annex I

## Road Traffic (Amendment) (No. 2) Bill 2011

## Committee Stage

Amendments moved by the Secretary for Transport and Housing

<u>Clause</u>	<u>Amendment Proposed</u>
7	<p>(a) Before the proposed section 67A(1), by adding—</p> <p>“(1A) In this section—</p> <p><i>fitted EDRD</i> (已裝配電子數據記錄儀) has the meaning given to it by regulation 2 of the Road Traffic (Construction and Maintenance of Vehicles) Regulations (Cap. 374 sub. leg. A).”.</p> <p>(b) By deleting the proposed section 67A(7).</p>
8	<p>(a) In the proposed section 102I(2)(b), by deleting “not valid except” and substituting “only valid”.</p> <p>(b) In the proposed section 102I(7)(a), by deleting “a designation” and substituting “the designation of a pre-service training school”.</p> <p>(c) In the proposed section 102I(10)(b), by deleting “not valid except” and substituting “only valid”.</p> <p>(d) In the Chinese text, in the proposed section 102J(6)(b), by deleting “人”.</p>
12	<p>(a) In the Chinese text, in the proposed regulation 24B(10)(e), by deleting “製造商” and substituting “廠名”.</p> <p>(b) In the Chinese text, in the proposed regulation 24C(10)(e), by deleting “製造商” and substituting “廠名”.</p>

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In the Chinese text, in the proposed Schedule 19—

- (a) in section 2, by deleting “等性” and substituting “特性”;
- (b) in section 12, by deleting “準確性” and substituting “的操作”.