

## **OFFICIAL RECORD OF PROCEEDINGS**

**Thursday, 19 April 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 EMILY LAU WAI-HING, J.P.

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

DR THE HONOURABLE PRISCILLA LEUNG MEI-FUN, J.P.

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

DR THE HONOURABLE PAN PEY-CHYOU

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

**MEMBERS ABSENT:**

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

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

**PUBLIC OFFICERS ATTENDING:**

THE HONOURABLE STEPHEN LAM SUI-LUNG, G.B.S., J.P.

THE CHIEF SECRETARY FOR ADMINISTRATION

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

THE SECRETARY FOR JUSTICE

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 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

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

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

THE HONOURABLE 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

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

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

### **CLERKS IN ATTENDANCE:**

MRS CONSTANCE LI TSOI YEUK-LIN, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

**PRESIDENT** (in Cantonese): Council will now resume and continue with the debate on the Motion under Rule 49B(1) of the Rules of Procedure.

## MEMBERS' MOTIONS

### MOTION UNDER RULE 49B(1) OF THE RULES OF PROCEDURE

#### **Continuation of debate on motion which was moved on 18 April 2012**

**MS MIRIAM LAU** (in Cantonese): President, freedom of speech and freedom of assembly are the core values cherished by Hong Kong people. Since Hong Kong is a pluralistic and liberal society, the Liberal Party has always believed that we must steadfastly maintain or even defend these rights. Nevertheless, it is very important that the principle of peace, reason and non-violence must be observed in exercising these rights, because only in doing so can we ensure that everyone can express their views freely. In our opinion, this is also one of the core values Hong Kong people have always cherished dearly and striven to uphold.

Unfortunately, many violent scenes of confrontation have erupted both inside and outside the Legislative Council in recent years, and the situation is worsening, sometimes even posing a threat to personal safety. In the past couple of years, I have been asked this question by many kaifongs, "How can the Legislative Council tolerate these acts of violence?" I had no idea how to answer this question. In September last year, Mr LEUNG Kwok-hung led a group of demonstrators to charge into a forum held in the Hong Kong Science Museum on the replacement mechanism. Not only did they start a war of words with people on the scene, but some demonstrators even disrupted the forum wantonly, or behaved violently to the security guards there. Yesterday, Dr Priscilla LEUNG even used the expression "grabbing necks", though I did not witness this. I could only see demonstrators fend off the security guards with their arms and nearly grab their necks. Quite a number of viewers have seen these violent scenes of charging on the television. Some friends have even told me that they were extremely shocked, or even terrified. They dared not believe such fierce acts of charging could have happened in Hong Kong, a place known for its passion for peace.

We would like to point out that freedom of speech is not equal to freedom of using violence. If someone uses violence against others, like what Mr LEUNG and other demonstrators did on that day, he is merely seeking to exploit the rights of expression of other people under the pretext of pursuing freedom of speech. We absolutely do not approve of such acts, and we absolutely cannot condone them.

Owing to this charging incident, Mr LEUNG Kwok-hung was consequently found guilty by the Court of four offences, including behaving in a disorderly manner in a public place, criminal damage, and so on. In passing the sentence, the Magistrate criticized them that their behaviour had interrupted the consultation, describing their behaviour as "a breach of the peace and an act in a disorderly manner" as well as "irritating". The sentencing judge further pointed out that Mr LEUNG's behaviour would cause members of the public to worry about their personal safety when attending public events or even to be deterred, thus causing society to retrogress.

Mr LEUNG's sentence to imprisonment for two months raises an issue with Article 79(6) of the Basic Law which provided therein: if a Member of the Legislative Council is sentenced to imprisonment for one month or more, he or she may be relieved of his or her duties with consent from two-thirds of the Legislative Council Members present.

Since Mr LEUNG is appealing the case, there are views that he should not be dismissed at this stage. Yet, we must note that there is a precedent for this Council to follow in handling matters of a similar nature. In 1998, Mr CHIM Pui-chung was expelled from the Legislative Council for being sentenced to imprisonment for forgery, even though he was also applying for judicial review of his case. Of the 47 Members present at the meeting, 45 (including the Liberal Party and major political parties to which many Members present here belong) voted in favour of the motion, with one Member abstaining and the President not casting any vote, as he usually did.

Hence, non-discriminatory treatment must be extended to all. We cannot give the public an impression that this Council accords different treatment to Mr LEUNG Kwok-hung and Mr CHIM Pui-chung or condones violent acts of charging. Only in doing so can this Council maintain its credibility.

The Liberal Party considers it necessary to deal with today's motion carefully, and so we have considered for a long while and checked past documents. Although some colleagues have described the voting on this motion today as a declaration of political stance, we must be extremely cautious given that we are discussing the disqualification of a Member, particularly an elected Member, from office. In this connection, the Liberal Party conducted a touch-tone telephone survey from 12 April to 16 April, during which 615 members of the public were interviewed through random sampling. The findings reveal that 64% of the interviewees considered that Mr LEUNG Kwok-hung deserved the two-month imprisonment, and 56.2% of the interviewees agreed that reference should be made to the previous case involving Mr CHIM Pui-chung and, without waiting for the outcome of the appeal, the motion should be passed to relieve Mr LEUNG of his duties. The wishes of the public can be described as extremely clear. The findings of the survey thus serve as important reference for the decision made by the Liberal Party today.

Another consideration is whether another by-election will be triggered should Mr LEUNG Kwok-hung be stripped of his seat and the newly elected Member will hold office for only one or two months as the term of the Legislative Council will soon expire. After study, we found that this would not happen ..... President, it is actually impossible for this motion to be passed. But, in the unlikely event that it is passed and Mr LEUNG Kwok-hung is stripped of his seat, a by-election will still not be triggered because time simply does not allow it. So, there is no need to consider whether public funds will be wasted.

All in all, we consider Mr LEUNG Kwok-hung's criminal behaviour this time around extremely wrong, and we cannot approve of it and, still less, condone it. Furthermore, there is a precedent of a Member being dismissed for being sentenced for imprisonment for more than one month. Some colleagues hold the view that Rule 49B(1) of the Rules of Procedure and Article 79(6) of the Basic Law are not mandatory and that Members have discretion to decide whether or not to support the motion. This I agree. Furthermore, some colleagues describe the voting as a declaration of political stance and there might not be any actual effect. This we agree, too. There are also some colleagues who consider Mr LEUNG Kwok-hung's behaviour correct and understandable and that he is worth supporting. Although some other colleagues do not approve of his act, they find him forgivable because his violent act was committed for the sake of the

public, not in his own interest. As a declaration of political stance, today these Members will certainly oppose this motion proposed by Mr Paul TSE.

However, the Liberal Party does not approve of these views because, however sound the reasons are, it is unjustifiable to resort to violence, for this society does not allow us to do so. Hence, violent acts will always attract criminal liability. The Liberal Party will give full support if the freedom of assembly and freedom of speech are exercised by peaceful, rational and non-violent means. However sound the justifications are, the Liberal Party cannot agree to and tolerate resort to violence.

We do not take any issue with Mr LEUNG Kwok-hung *per se*. Moreover, we find him very gentle during our usual contacts. Nevertheless, he has erred by resorting to violence. So, sorry, after thinking about this over and over, we have decided to support Mr Paul TSE's motion. Yet, Mr LEUNG Kwok-hung might as well put his mind at ease, because the motion today can be passed only when two-thirds of Members vote in favour of it. As the possibility of this motion being passed is zero, he should feel relieved.

President, I so submit.

**MR CHAN KIN-POR** (in Cantonese): President, concerning the Legislative Council's debate on relieving Mr LEUNG Kwok-hung of his duties as a Member of this Council, various political parties and groupings hold different views. Most of the Members who oppose the motion consider that Mr LEUNG's behaviour, which sought to give voice to public opinion, represents a struggle for political rights. In my opinion, Mr LEUNG might have his own justifications for his behaviour and did not aim at pursuing his personal interests. But I do not think that this should be the basis of our consideration in analysing this motion. Rather, our consideration should be based on objective facts.

According to the Court's ruling, Mr LEUNG Kwok-hung has mainly committed four offences involving criminal damage and behaving in a disorderly manner in a public place. In considering whether this Council should relieve Mr LEUNG Kwok-hung of his duties, our judgment should be based on relevant facts, or else it will be difficult to convince the public of our decision. Therefore, Mr LEUNG should bear all the consequences arising from his

improper act even though his original intention is desirable. Let me cite an extreme example. Had he committed manslaughter or inflicted grievous bodily harm to a person, he would still be held responsible even though he really had good intention and justifications rather than pursuing personal gain. I believe his original intention is desirable, which has also been taken into account by the Court in meting out the sentence.

However, I also understand that to relieve a Member of his duties as a Member of the Legislative Council is a most solemn matter. It is also an act that overrides the original preference of the voters. Therefore, there must be full justifications for our decision. The offences committed by Mr LEUNG this time around are criminal damage and behaving in a disorderly manner in a public place. The incident scene was extremely chaotic, with a lot of scuffles. Although I will never agree with such behaviour, I must admit that its severity does not suffice to support any decision to relieve him of his duties as a Member.

As I said earlier, I support initiating this motion to maintain consistency in the practice of the Legislative Council. But it does not mean that I support relieving Mr LEUNG of his duties. Finally, I hope Members will respect judicial independence. We cannot say that justice is done by the Court because its ruling is in our favour, and say that the Judiciary has suppressed freedom when we are not satisfied with its verdict. If we adopt the attitude of a bad loser, it may impose undue pressure on the Court.

I so submit.

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

**MS AUDREY EU** (in Cantonese): President, first of all, let me make it clear at the outset that I personally consider the use of violence unacceptable, and no matter how good the intention may be, the use of violence, though minimal, must never be an option. I accept the freedom of speech, but the exercise of freedom of speech must have regard to the rights of a third party. I cannot accept any form of violence, including minimal violence, for this can affect a third party, terrifying a third party and even resulting in accidents. However, President, what we are debating today is not whether a certain confrontational tactic is right

or wrong; nor is it a debate on how badly the Government has handled the replacement mechanism; nor is it meant to discuss whether the court judgment is right or wrong. What we are discussing today is whether we should pass a motion to dismiss Mr LEUNG Kwok-hung under Article 79(6) of the Basic Law on the ground that Mr LEUNG Kwok-hung has been convicted and sentenced to imprisonment for two months.

Mr CHIM Pui-chung said in his speech yesterday that while Mr LEUNG Kwok-hung was the protagonist, he himself was actually the second protagonist or the supporting actor, but Members who had paid attention to Mr CHIM's speech could find that the protagonist is really the Civic Party. But this is not important. As we all know, no matter how exasperated Mr CHIM Pui-chung had become and how he had banged on the table for so many times in a fit of pique and even resorted to the use of unparliamentary language, this is just a usual performance by Mr CHIM Pui-chung which is really to nobody's surprise. Therefore, we had better dismiss all this with a smile, especially things that have strayed too far away from the question under discussion. It has been an established position of the Civic Party to discuss with reasons, and when other people do not speak with reasons, it does not mean that we have to degrade ourselves and act like them. So, in my speech today I would like to respond to the remarks made to criticize people who do not support this motion today, whether they were views made by Mr CHIM Pui-chung, Mr IP Kwok-him or Mr LAU Kong-wah.

To sum up, their views include just a few points. The first point, which was first made by Mr LAU Kong-wah, is that we are condoning, shielding and conniving at a wrongdoing. He said that we are conniving at and condoning the use of violence by other people or their neglect of law and order. President, I think Mr LAU Kong-wah is forgetful, and so are Mr IP Kwok-him and Mr CHIM Pui-chung, because it so happens that — I think what happens in life is sometimes quite interesting — as for the debates of the Legislative Council scheduled on the same day, two debates that started yesterday are both related to Article 79 of the Basic Law; one is related to Article 79(6) and the other to Article 79(7), both of them being related to the dismissal of Members. The first motion, which proposed to relieve the Member of his duties and the passage of which requires support from two-thirds of Members of this Council, concerned Mr KAM Nai-wai. We have just completed the debate on that motion, followed by this motion concerning Mr LEUNG Kwok-hung.

On the screen I could see the process of the vote and Members' voting result. The pro-establishment camp in the Legislative Council had supported that an Investigation Committee be set up to investigate Mr KAM Nai-wai. The Investigation Committee stated very clearly that he was unfair in dismissing his female assistant and that he had expressed affection towards her, and while the female assistant rejected him, Mr KAM Nai-wai was still insistent on asking her out and was alleged to be exerting pressure on her, right? He even dismissed her subsequently. They strongly disapproved of such behaviour and pointed out that he made inconsistent remarks when he spoke to the public, thus causing doubts about his integrity. However, when the vote was taken, they voted against his dismissal. Could I, therefore, say that they are shielding, indulging, conniving at and supporting Mr KAM Nai-wai's dismissal of his female assistant? So, one's position must not change at different times.

For the second point, they said that we are taking different positions at different times, that we preach one thing but do another, and that we have double standard. Their main argument is that in respect of that last incident that occurred more than a decade ago when even the Civic Party had yet been set up and there was only Dr Margaret NG in this Council, she voted for the motion on the dismissal of Mr CHIM Pui-chung. As we all know, and as the Legal Adviser has reminded us, the action as provided for under Article 79(6) of the Basic Law that we are discussing today is not to be taken automatically. Each Member must make his or her own judgment. In fact, people who have some common sense will understand what it means by making reference to precedents. In making reference to precedents, we just cannot apply them rigidly. We must not make a determination that a person who coughs has tuberculosis. We must make a decision in the light of the circumstances, and this is simple. People who have some common sense will understand it. When we say that a person who coughs may not necessarily suffer from tuberculosis, the public will definitely understand it.

If it is said that a Member who is sentenced by court to imprisonment for one month or more will touch the threshold for dismissal, and as Dr Margaret NG already told Members very clearly in her speech yesterday, Mr CHIM Pui-chung actually sought a judicial review at that time, arguing that the Legislative Council should not dismiss him. Mr Justice KEITH clearly explained that a judgment on whether or not to support a motion on dismissal and when a motion on dismissal should be proposed would be entirely a decision made by individual Members

based on their own judgment and that is, to act in good sense, so to speak. It depends on what you think what reasons should be used as the basis — you can have a host of reasons; it can be that no integrity issue is involved here; it can be that a judgment is made according to the nature of Mr CHIM Pui-chung's conviction or the length of his sentence — This is not stated in law; nor is this stated in the Basic Law. Therefore, Mr LAU Kong-wah should not say that this is not giving play to the rule of law. To give play to the rule of law, Members are precisely required to make a judgment having regard to the circumstances. When a Judge makes a judgment — Members may refer to the law books; many law books are published every year, each setting out many precedents — We must make the most appropriate judgment having regard to the circumstances at the time. The Civic Party has examined all the precedents in relation to this motion today; we have thought about this issue and sought advice on it. In fact, Dr Margaret NG and Mr Ronny TONG already pointed out very clearly in their speeches yesterday that our decision is based on a number of points: Given that no integrity issue is involved on the part of Mr LEUNG Kwok-hung, given that he can continue to serve the people, and given the nature of this incident, we have decided not to support this motion proposed by Mr Paul TSE today which Mr Paul TSE himself does not support.

Third, Members have mentioned the credibility and dignity of the Legislative Council. How credible is the Legislative Council in the minds of the people? I believe Members in this Council all know this only too well. But there is one point that Members who spoke today or yesterday have not mentioned and that is, there are actually two students who are also sentenced to imprisonment along with Mr LEUNG Kwok-hung. Mr LAU Kong-wah said yesterday that Mr LEUNG Kwok-hung has really led the students astray. I must tell Mr LAU Kong-wah — though he is not in this Chamber the whole morning — that he has indeed underrated these students. I would like to read out in this Council the articles which published by these two students in the press, explaining their behaviour at the time. The first is a student surnamed CHAN of The Chinese University of Hong Kong (CUHK). Her name is CHAN Sin-ying. The title of her article is: "Freedom gained only with the efforts made by one generation after another". She said (and I quote) to this effect: "However, even though we had organized ourselves into a youth coalition to stage rallies, submitted written submissions to the Government and taken to the streets on 1 July to express our opposition, the Government continued to treat public opinions lightly and insisted on introducing the replacement mechanism,

rendering our actions completely fruitless. The Government even held two consultation forums which were nothing short of putting up a show, arranging for its supporters to attend the forums to express support for the Government's proposal! How can we not come forth bravely? Fighting for justice is, in fact, a value sacrificed under the many years of orthodoxy set up by the mainstream pan-democrats. This is why we are eventually labelled as rioters. Under the symbols of 'rule of law', 'peace', 'rationality', the arbitrary arrests made by the police and political prosecution effected by the Department of Justice are born out of the upholding of 'justice' in society. Had the Court not meted out the harshest sentence for the last 50 years or so and had it not been students who were given a heavy sentence, I think the sudden burst of public rage over the replacement mechanism and political prosecution would have been unimaginable. After all, it has been common over the years for the sentencing of social activists to receive no response. That said, every instance of injustice has its point of explosion and point of enlightenment, and I have so much trust in Hong Kong people who, I believe, will learn from lessons and maintain perseverance in fighting for justice and then take actions to make changes to society. The life and death of this city hinges on changes that could be made possible only with the efforts made by one generation to another. This definitely cannot be achieved overnight by the efforts of any individual. I hope that this sentence of three weeks can wake up more and more of those who are asleep, spurring them to fight for liberation, so that everyone can have the freedom not to be ensnared by fears." (End of quote).

As for the other student surnamed TANG of Lingnan University, the title of his article is "No complaint and no regret in .....". (I quote) to this effect: "From the incident on 18 August (he was referring to the HKU incident) to the incident during the forum at the Science Museum, I was involved in both incidents. On both occasions, I was victimized and I happened to find myself on the two ends of public opinions, which is quite odd in history. Despite different interpretations of the two incidents in the media and the public, I find that the powers-that-be have remained consistent. In order to suppress dissenting views, they sometimes directly interfere with the freedom of individuals to exercise their rights, just as they did in the 18 August incident, and they sometimes make use of the legal authority to strike at the action takers, just as they did in the Science Museum incident. The many draconian laws inherited from the colonial era that have not been re-examined, such as 'unlawful assembly' and 'disorderly conduct' in the Public Order Ordinance, have thus become the weapons conferring excessive powers on the police and enabling suppression of the opposition. Last

year, the police took large-scale operations against demonstrators and arrested as many as 400-odd people, the largest number since the 1967 riots. As for prosecution, other than the case of Science Museum, a number of other demonstration cases are being heard in court at the moment. If last year is the year of arrest, this year is the year of prosecution. Political prosecution and speech crime prosecution are tricks used by the powers-that-be, and whether or not they will succeed depends on the people's will. Faced with increasingly serious political suppression, all we can do is to keep on using our bodies to desperately put up resistance, and we have no regret in taking this path to justice." (End of quote)

I have particularly read out the articles of these two students because the Judge meted out the sentences on account of joint enterprise between the two students and Mr LEUNG Kwok-hung. I personally have reservations about whether there is a case of joint enterprise or whether there is evidence showing joint enterprise on their parts, and I think this will be a point of contention in the appeal proceedings. But as I have just said, we are not here to debate whether the court judgment is right or wrong. But since the Judge said that they are in joint enterprise, I think it is necessary to cite these articles in which the two students have explained their true intentions, so that Members can rethink this. I particularly wish that Members will rethink this: When these two students were sentenced to imprisonment for a few weeks — it is said to be three weeks here — on account of joint enterprise with Mr LEUNG Kwok-hung, several academics in CUHK promptly expressed their views. The Vice-Chancellor and President of CUHK, Professor Joseph SUNG, who is well known in society and to this Council as well, came forth to tell everyone that CUHK is proud of these students. Certainly, Members can say that the status of these students is different from that of Mr LEUNG Kwok-hung, but the incident in which their behaviour has led to their conviction and sentencing is the same in nature. What I find interesting is that on the one hand, we have seen that the Vice-Chancellor and President of CUHK, a renowned academic in Hong Kong, came forth to say that the students were right in what they did, that he is proud of them and that the university would do its utmost to assist them in the appeal, we in the Legislative Council are debating a motion on the dismissal of Mr LEUNG Kwok-hung on the other.

I think this reflects that in society, there are indeed highly respectable people with prominent social status holding a different view on this incident.

This is worthy of our rethinking and reference. Disregarding whether Members will support or oppose the motion for whatever reasons, we in the Civic Party will respect them, and we consider this an issue of enormous import which relates to the constitutional duty of the Legislative Council. Today, it can be a person who acted for social justice facing a dismissal, and tomorrow, it can be a person being dismissed for holding different political views or political opinions. We should consider this motion on the same principle. After consideration, we in the Civic Party will oppose the motion for all the reasons stated by Dr Margaret NG and Mr Ronny TONG previously and those that I stated in my speech today. Thank you, President.

**MR CHEUNG MAN-KWONG** (in Cantonese): President, I would like to express the Democratic Party's views and mine on the motion of relieving Mr LEUNG Kwok-hung of his duties by the Legislative Council. First of all, as we all know, Mr LEUNG Kwok-hung's acts sought to express his objection to the replacement mechanism proposed by the Government. Regardless of the action, behaviour or way of expression adopted by Mr LEUNG Kwok-hung, his stance of opposition also reflected the stance of the majority of Hong Kong people at that time. Certainly, I dare not say that the majority I mentioned can represent all people. Even in this Council, some Members will support any option proposed by the Government seeking to abolish by-elections. They will still lend their support to it even if the Government has changed its stance. In doing so, they have the duty to give an explanation to their voters.

However, it is true that most people had indicated their objection and as a result, a variety of mass movements was triggered. It was proved afterwards that the Government started to make amendments under the pressure of the masses. Regardless of whether Members agree with the relevant amendments again, the Government cannot ignore the voices of the masses, including the voices of Mr LEUNG Kwok-hung and his alliance.

Concerning the stance of the Democratic Party, there is no difference from that of Honourable colleagues from the democratic camp. The only difference lies in the way we express our objection. We also mentioned this point in the past. In our opinion, if you gatecrash the forum by pushing open the door of the venue in a rude manner, and then destroy public property or even inflict injury to other people in the venue or pose danger to them because you oppose the

replacement mechanism and have chosen to express your views in such a manner, it is wrong and inappropriate. Even though no one has suffered any injury directly, yet such an act is, as the Judge said, wrong and inappropriate as long as other people in the venue have been prevented from expressing their views in a comfortable and safe environment. The Democratic Party cannot approve of such an approach.

In fact, Mr LEUNG Kwok-hung were charged of criminal damage and behaving in a disorderly manner in a public place. Now, the Court has passed a verdict. We respect the Court's verdict and know that Mr LEUNG Kwok-hung will lodge an appeal against it. This is a procedure under an independent judicial system. We will wait for the outcome.

Nevertheless, we have to point out that we have always advocated that mass movements be conducted in a peaceful, rational and non-violent manner. We believe and history will show that mass movements conducted in a peaceful, rational and non-violent manner will have the biggest vitality and sustainability. If the participants of a mass movement have adopted a rude manner and even resorted to violence, or inflicted insults or threats to those who hold different political views or dissidents in their own camp, they may stir up a sensation which is only transient. Nor can they give vitality and sustainability to mass movements among the general public.

I certainly understand that an organization which advocates social campaigns has the right to choose its way of expression and needs to be responsible for its way of expression or acts. However, I very much hope that, after such a long debate or reflection, we should be able to understand one point: There should be harmony with differences and mutual respect. We should not adopt a conceited manner, thinking that "I am right and the others are wrong or not even qualified to be democrats." Today, we have to uphold Mr LEUNG Kwok-hung's right to be a Member of this Council. We oppose the proposal to relieve him of his duties. This is the obligation and duties of Members from the democratic camp. Regarding the criminal aspect of the case, the Court will pass a judgment. But regarding the political aspect, it is a question to be faced by us. Given that we oppose the replacement mechanism and it was the mainstream view of the majority public at that time, we maintain that Mr LEUNG Kwok-hung should not be relieved of his duties by this Council at this meeting — regardless of how much is left of the term of this Council — although we do not

agree that the freedom of expression of the masses in the forum who held different views should be undermined in a brutal way.

On the other hand, I still wish to take this opportunity to say a few words to those students who have participated in this incident and action. Each and every one of us was a student before. For some Members who are present at this meeting, many of them have taken part in a variety of student movements. The motive of student movements is very pure and there is only one purpose: to reform society, strive for justice and realize the ideal. This process is a valuable experience for all those students who have a sense of justice. It is even a process for them to go through as they grow up and mature. In this process, they can decide whether they should achieve their goal by peaceful or radical means. In any way, they are merely students of a society in which we can find a sense of justice. We should cherish it rather than ruin it.

As the Vice-Chancellor of CUHK said, we are proud of what they did even though we may not necessarily agree with the way they express themselves. I very much hope to take this opportunity to express my concern to them. I also hope that when their appeal is considered, the Judge will give merit to the fact that this case represents the process of growth of university students who are concerned about society and public justice, and therefore give them freedom so that more young people will care about our community. It would be better than having a group of young people who are just concerned about their academic performance and personal interest. It would be better than having cultivated a group of young people who are indifferent to society.

President, let me reiterate that the Democratic Party opposes the motion of relieving Mr LEUNG Kwok-hung of his duties as a Member of this Council.

**MR JEFFREY LAM** (in Cantonese): President, in view of the fact that there are precedents for this and that public opinion demands propriety in the conduct of Members of this Council, the Economic Synergy agrees that in accordance with the Rules of Procedure, Mr LEUNG Kwok-hung should be relieved of his duties as a Member of this Council. President, I must stress that when we support this motion, there is no implication of any personal likings or otherwise in respect of

Mr LEUNG, or are we influenced by any political stand or view. What we do is founded on facts and our view of this matter is based on facts, too.

It all started in September last year when Mr LEUNG and a group of protesters charged and disrupted a public forum on the replacement mechanism organized by the Government and held at the Hong Kong Science Museum. Last month, Mr LEUNG was sentenced to imprisonment for two months. President, under the Rules of Procedure, any Member of this Council sentenced to a prison term of one month or more shall be disqualified as a Member of this Council. Similar cases have happened before. Mr CHIM Pui-chung, the incumbent Member from the financial services constituency, was sentenced to a prison term of three years in 1998. He was relieved of his duties as a Member of the former Council during the time when an appeal had been lodged by him. If the Council does not apply the same standards and act according to the rules, how are we to convince the public?

The judgment handed down by the Magistrate is worth pondering over and reflecting on. The Magistrate mentioned that the original meaning of the right to demonstrate is to ensure that the right of the public to express views is protected. However, Mr LEUNG forced his way into the meeting venue of the forum for the replacement mechanism and engaged in a foray of damaging public property. He screamed frenetically and rushed onto the stage and wreaked havoc. The forum was entirely hijacked. Such conduct went beyond the right of the freedom of expression and it was actually denying others the opportunity of speaking. It was an attempt to rationalize force and violence, and it had caused damage to the quest for peace and reason in society. I am sure the public will not support this abuse of his identity as a Member of this Council, bringing his actions to the very limits of law and this kind of sheer radical and violent behaviour.

Some Members of the pan-democratic camp think that Mr LEUNG contravened the law to advance the cause of public interest. I do not think the explanation is plausible. Everything done by a Member of this Council should be for the cause of public interest. But why can some Members resort to violent action, regardless of the safety of others or their right to speak? Dr Margaret NG agreed in 1998 that Mr CHIM Pui-chung be relieved of his duties as a Member of this Council, but why did she say this time around that the nature of Mr LEUNG's offence did not involve any personal gain? Does the public share

the same view? I do not think so. There are also some Members from the pan-democratic camp who shirk their responsibility in this matter. They pointed out that the Court is conducting a political trial and the question of whether Mr LEUNG should be stripped of his seat should be left to voters in the next election to decide. Obviously, this view of the pan-democrats shows that they are holding double standards, being strict with others while loose with themselves. They are unfair to Mr CHIM Pui-chung and they cannot explain their behaviour to the public.

President, in recent years, the kind of protests staged by social activists or people from the radical opposition camp has become more and more extreme. They occupy the streets and charge at police cordon lines. And cases of the police using pepper spray and protesters having scuffles with the police have become commonplace. Admittedly, Members of this Council have the right to take part in demonstrations, but what they do should be based on the principle of upholding the reputation and dignity of this Council. They must be accountable for their conduct. And their conduct must be measured by a line of moral standards more stringently drawn than that for the common people.

Mr LEUNG is a Member of this Council. Not only has he not set himself as a model in boycotting violence, he has on the other hand broken the law intentionally and disrupted public order. The Court has passed a fair judgment on his conduct. In order that the dignity and reputation of this Council can be upheld, that the will of the people can be manifested in censuring politics of violence and that this Council can be seen as impartial and not favouring anyone, the Economic Synergy will lend its support to this motion.

President, I so submit.

**MR PAUL CHAN** (in Cantonese): President, fellow Members, good morning.

President, today, Mr Paul TSE moved a motion to relieve the Honourable LEUNG Kwok-hung of his duties as a Member of the Legislative Council according to 49B(1) of the Rules of Procedure. This is the second time this Council has debated a motion to relieve a Legislative Council Member of his duties in accordance with Article 79(6) of the Basic Law. This Legislative Council term is now in its fourth year. As a "novice" Member, I looked up the

records of the first debate on a similar motion at the Legislative Council, and found that a motion was moved under Article 79(6) of the Basic Law for the first time in 1998. At the time, Members and the legal advisors at Legislative Council spent a lot of time studying the arrangements for moving the motion and other related matters. They also took into account whether they should wait until the appeal verdict was handed down for the Member concerned, before starting the motion debate to relieve his duties. Although not many Members spoke during the debate, the motion was passed with 45 Members in favour and one abstention.

President, through today's motion debate, we can think about and discuss the criteria for relieving a democratically elected Legislative Council Member of his duties once again.

I made the acquaintance of Mr LEUNG Kwok-hung only after I was elected a Legislative Council Member in 2008. Since then, I have had the chance to observe his style and behaviour from a close distance, rather than just relying on television or press reports. It was an eye-opening experience to witness how he expressed his views in the Council. Occasionally, when I show my accountant friends around the Legislative Council building, whether it was the new or the old Legislative Council building, many of them are curious to know from which spot Mr LEUNG threw his bananas and eggs. I believe different people have different views about Mr LEUNG's behaviour inside and outside the Legislative Council which is said to disturb order. In particular, those with diverse political stances have widely divergent views about it. I have set up a page on Facebook so that people can discuss this motion. The proportion of those for and against it is very similar. They each have their own arguments and stick to their own views.

President, even so, I personally think that Mr LEUNG's behaviour is sometimes too extreme. As many parents say, it sets a bad example for children. President, in deciding how to vote in this motion, I have followed these steps: first, I looked up the Rules of Procedure, and then I studied Article 79(6) of the Basic Law. Although some Members have already talked about it, I would like to quote it again: "The President of the Legislative Council of the Hong Kong Special Administrative Region shall declare that a member of the Council is no longer qualified for the office under any of the following circumstances."

Clause (6) says: "When he or she is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region and is relieved of his or her duties by a motion passed by two thirds of the members of the Legislative Council present". In other words, according to this clause, relieving a member of his duties is not an automatic and necessary process. Those who participate in this debate should take into consideration the content and nature of the case, as well as other factors. In other words, even if the member is sentenced to imprisonment for one month or more, he or she may not necessarily be relieved of his or her duties. The member can only be relieved of his duties by a motion passed by two thirds of the members present. This requirement is different from the provisions in other clauses of Article 79 of the Basic Law. Under Articles 79(1), 79(2), 79(3), 79(4) and 79(5), the offending member will be disqualified automatically.

President, I have listened attentively to the speeches of different Members. Some Members suggested that Mr LEUNG's integrity was not an issue in this case, nor did he act out of self-interest. This is of course one consideration to take. However, it is not the only consideration. We cannot decide not to relieve him of his duties because of it. Otherwise, according to this logic, Members who have committed murder or rape will not be relieved of their duties either.

President, regarding the case in which Mr LEUNG was sentenced to imprisonment for two months, the Judge convicted Mr LEUNG for disrupting public order and criminal damage. The charges were related to an incident last September in which Mr LEUNG and a group of young people were said to have disrupted a forum on the replacement mechanism. President, I forgot to mention one point. In considering how I should vote on this motion, I have also considered whether or not to take into account Mr LEUNG's past behaviour inside and outside this Council. Should I give him ..... I beg your pardon ..... Should I let his past behaviour inside and outside this Council influence my decision on how to vote on this motion? President, after some consideration, I decided to focus only on the case that triggered this motion, as well as the conviction and the nature of the case, in considering how to vote on this motion. As for other matters, behaviour and past acts related to him, they should be excluded and not be taken into account.

President, as I said earlier, the case that triggered this motion was that Mr LEUNG disrupted a forum on the replacement mechanism last year. In the middle of last year, when the Government submitted its original plan for filling Legislative Council vacancies, I had, at a very early stage indicated to the Government twice that I would not support it. As far as I know, some independent Members and other Members in this Council also held the same view. However, the Government tried to bulldoze it through. After submitting the papers, it wanted the Legislative Council to complete the deliberation in two to three months, and pass the bill in the third reading. Many people did not approve the Government's handling of this matter, and there was widespread discontent. I thought these sentiments were justified and understandable. Thus, I was not surprised by the protests.

President, after facing criticisms from this Council and beyond, the Government realized that it had insufficient support. Hence, it announced the postponement of the Second Reading of the relevant bill last July, and later it published a consultation paper on the arrangements for filling Legislative Council vacancies. However, the Government only scheduled two forums in August and September. Even though there were 600 places for the two forums, the quotas were filled on the first morning of enrolment. Many people were unhappy because they could not enrol for a place. Yet the Government did not organize more forums to satisfy the demand. Was this kind of response and arrangement appropriate? Did it not fuel the disgruntled sentiments?

On the day the forums were held, the Government did not do very well in arranging to admit members of the public on the waiting list. According to newspaper reports, even though all places were reserved for the forum held in Sha Tin, there were many absentees. As a result, all those on the waiting list were admitted. However, according to press reports, even though there were still vacant seats at the second forum, the Government did not admit members of the public who were queuing up. This provoked an outcry among those waiting, who eventually forced their way in.

President, I disapprove of the behaviour of Mr LEUNG and those who disrupted the forum on the replacement mechanism that day. Some acts by those who caused disruptions were particularly inexcusable. However, I do not think Mr LEUNG should be relieved of his duties as a Legislative Council

Member for his acts on that occasion. Based on the above consideration, I oppose Mr Paul TSE's motion.

President, I so submit.

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

**MR WONG KWOK-KIN** (in Cantonese): President, I wish to express some views on behalf of the Hong Kong Federation of Trade Unions (FTU). First, we do not think it is necessary to debate this motion today, since the Member who moved the motion already knew it would not be passed, and indicated that he would vote against it. If so, why do we bother to debate it? Actually, it is about whether we should follow the Rules of Procedure of the Legislative Council and the precedent that has been set. Before the case of Mr LEUNG Kwok-hung, there was a similar case years ago that involved Mr CHIM Pui-chung. In the end, he was relieved of his duties as a Legislative Council Member. If so, should we act according to the rules? After careful consideration, we think we should follow the precedent. Should Legislative Council take a lesson from this and establish clearer standards? If you ask my personal opinion, I do not think we should relieve a Member of his duties while the case is still on appeal. Even if the Member has committed a serious offence, the Legislative Council should not relieve him of his duties while the case is on appeal and before he is convicted. But after thinking it over, I came to the conclusion that we should follow the precedent. If we do not support the motion and oppose it, it would be unfair to the Member concerned of the previous case, and we would be treating the cases with double standards. In view of this, we can only vote in favour of the motion today.

During the debate, many people have raised one question, which is whether this case involves a very serious mistake? Did Mr LEUNG Kwok-hung make a very big mistake? If you ask my opinion — as Mr Paul CHAN said earlier, he has always been described as violent. This does not merely apply in this case — I would not describe his behaviour as violent, it is merely rough. Even though he seems to act bravely in front of the camera, he is very good at protecting and restraining himself. So I am not worried he will behave very violently. When

the seating arrangements were made for the new Legislative Council building, some colleagues were unwilling to sit next to him. I did not object to sitting next to him, since I do not think he is aggressive. He will not use violence to hurt someone. He only acts in a rough manner. Similarly, I do not see he had any intention of hurting anyone in this incident. He merely broke the law because of his unruly behaviour. Of course, if you break the law, you should be punished by the law.

However, one thing I rather disapprove of in this Legislative Council debate is that many pan-democratic Members seem to describe what Mr LEUNG Kwok-hung had done as something heroic and a model of heroism, since his honour is not in question, and he did it not out of self-interest, but for the sake of fighting against the establishment. Just because there is no self-interest involved and your honour is not in question, and you are doing it to fight against the establishment, does it make you a model of heroism? Does it mean that if we have an objective in mind and deem the objective to be just, we can use any means to achieve it? As for whether the objective is just, it is purely a matter of personal judgment, depending on what your values are. If you think you can use any means to achieve an end, even by breaking the law, can society tolerate or approve this kind of act? If this argument is valid, what about the so-called jihadists in the Middle East, who also fight for their beliefs and deem their ends to be just? They might use extreme and terrorist means to fight for something for their religion, nation and country. Can you say that what they do is right?

In my view, even if the end is just, it does not mean we can try to achieve it by any means, such as breaking the law. I do not think this was a violent incident. It only involved unruly acts. But since the Court has handed down a verdict, we can only act according to the precedent set at Legislative Council and according to the Court's verdict. I reiterate the hope that we can take a lesson from this and consider whether Legislative Council could establish clearer principles on this expeditiously. Even if we cannot do so within this term, the next term Legislative Council should continue to discuss the circumstances under which a Member should be relieved of his duties if he has broken the law. Otherwise, it is problematic if we apply one set of standards and say that it is OK even though one Member has broken the law, and apply another set of standards and say it is not OK for another Member to have broken the law. This will leave a very bad impression on the public, who will feel that Legislative Council tries to justify itself by establishing its own rules and that it applies double standards.

Because of different political affiliations and partisanship, the independent Mr CHIM Pui-chung was punished, while Mr LEUNG Kwok-hung who has a group of pan-democratic Members behind him can get away with it. Even though I know today's motion will definitely not be passed, we still want to express our views. In the FTU's view, since a precedent has been set, we will follow the precedent and support this motion. Thank you, President.

**MR CHAN KAM-LAM** (in Cantonese): President, yesterday and today, we have heard many Members speak on this motion. Maybe some people have a short memory. But if we recall some scenes from that day, it might refresh your memory.

On 1 September last year, the Constitutional and Mainland Affairs Bureau held a forum on the replacement mechanism at the Science Museum in Tsim Sha Tsui. Mr LEUNG Kwok-hung and some thirty people forced their way into the venue, tearing off the handle of the glass doors in the process. Mr LEUNG Kwok-hung also vandalized the lock of the wooden door with force. While rushing onto the stage, they kicked down several flower pots. It was utter chaos and the forum had to be cut short.

After charging into the venue, the rioters teamed up with certain troublemakers who were already inside. They rushed onto the stage and declared they had successfully occupied the venue and could now hold a "genuine consultation". Not only did they not abide by the rules, they shouted repeatedly and vandalized some facilities. Some of them swept the loudspeakers on the table to the floor. Others overturned the flower pots placed at the front of the stage, and some threw things repeatedly at the staff. Even members of the public who participated in the forum were attacked by the rioters. Some young rioters pushed the elderly, and drove out some participants. It was total chaos.

Try to imagine how members of public present felt: first, they heard troublemakers shouting outside, as well as sounds of banging on the doors. They had no idea what was going to happen. You can imagine their fear. Then, a group of people rushed in. The narrow aisles were filled with protesters, security guards, staff and reporters covering the event. Chaos reigned, with people trading insults and coming to blows. You can imagine the panic of those in the audience. Their behaviour had seriously disturbed public order and posed

a threat to the safety of others. No wonder people called such acts "savagery" and the troublemakers "rioters". That day, a security guard was seized by the throat by a rioter wearing a Guy Fawkes mask and was nearly injured. He said he was extremely scared at the time. These scenes should still be fresh on your mind.

After the incident, it was strongly condemned by Hong Kong people and various sectors of the community. According to opinion polls conducted, people condemned the disturbance at the Science Museum in general. This shows that the public reject this kind of radical protest on average. Some members of the public even placed advertisements in newspapers and took to the streets to show that the community would not condone violent acts. The violent acts of the protesters have perverted the core values of Hong Kong and deprived the people of the right of peaceful expression of their views. Some members of the public even strongly demanded that the police should investigate and punish the protestors.

Mr LEUNG Kwok-hung has always defended himself by saying that their actions were an act of civil disobedience and they were speaking for the people. They wave banners shouting that it is "for the sake of democracy and fighting for freedom". The most famous western saying on democracy is "I disapprove of what you say, but I will defend to the death your right to say it." However, Mr LEUNG Kwok-hung and a group of pan-democratic Members of this Council are accustomed to fighting for what they call "democracy and freedom" in a very dictatorial manner. For the sake of protest, they disregard the law and the safety of others. It was their violent act that deprived other people of their freedom of expression. In passing sentence, the Judge also said that while exercising his freedom of expression, the defendant should also bear in mind the basic rights of the audience of the forum. Because of this incident, people may be worried about personal safety when participating in public activities, and may shy away from such activities. This will make society go backward and have far-reaching consequences. If you curtail the right of expression of others with violence, you are trampling on democracy. I do not understand what right they have to talk about democracy and freedom.

The public have strongly resented this kind of violent protests for some time. Ever since joining the Legislative Council, the Members from the League of Social Democrats (LSD) and People Power have brought the violent acts of

street protests into the Council. Throwing bananas, eggs and tomatoes and sweeping things off the desk have become frequent practices. As Legislative Council Members, they scorn the dignity of the Legislative Council and the rules of the Council. After being expelled from the Chamber for repeatedly disrupting the procedures of the Legislative Council meetings in a violent and shameless manner, they were unrepentant and continued to yell. Their behaviour has not only affected the overall image of the Legislative Council, but also undermined the rational spirit of debate the Council emphasizes.

Using the platform of Legislative Council Members, the LSD and People Power have incited more people to participate in protests and demonstrations of a violent and unruly nature. In the course of their protests against constitutional reform, the Express Rail Link, the Budget and the replacement mechanism, they have surrounded the Legislative Council building, stormed the Liaison Office of the Central People's Government, pushed and hurt the Chief Executive Donald TSANG, confronted with the police, occupied roads and brought traffic to a standstill. The violence of the protesters has continued to escalate. People are concerned that if this kind of mob politics goes on, it will affect the normal social order and become a "tumour" in Hong Kong's political ecology. Some parents are worried that an environment of violent protests will affect the upbringing of the next generation. Young people may think that they can solve problems by being aggressive. Even more people believe that the key to Hong Kong's success in evolving from a small fishing village to the prosperous cosmopolitan city that it is today is the diligence of its people, social harmony and stability, and the fundamental spirit of the rule of law. Hong Kong people have always been proud of its civilized reputation. This kind of violent incidents has tarnished our image. On the whole, Hong Kong people do not condone violent confrontations and violent protests.

The people's attitude is clear and consistent. In contrast, the attitude of the pan-democratic Members in the Legislative Council Chamber towards violent acts is inconstant. While denouncing all violent acts one minute, they defend such acts the next minute and even call them "democracy fighters", euphemizing their violent acts as "righteous opposition". Obviously, their attitude towards these violent acts is based on their political interest, rather than public interest. If they are the target of violence, they will condemn it. But if the Central Government or the SAR Government is the target, such acts will help them gain political capital and they will condone it. From the debate in Chamber today,

you can see how the pan-democrats defend the core values of Hong Kong, such as reason, peacefulness, democracy and non-violence. What exactly is their attitude towards the politics of violence? Reason, peacefulness, justice and democracy are only the slogans of the pan-democrats. Those who use violence in the name of democracy and justice, disturb the public peace and deprive others of their rights in terms of democracy and justice can at best be called pseudo-democrats.

Mr LEUNG Kwok-hung's violent acts in the Chamber and in some social actions have long aroused the public's resentment. We have had several discussions in the Committee on Rules of Procedure. Some Members have blamed the President of Council meetings for being too lenient in keeping order during the meetings, thus aggravating Mr LEUNG's bad behaviour. Many Members in this Council have called for strengthening the regulation of Members' behaviour by the Rules of Procedure. We have also heard some views today. For instance, Ms Audrey EU said that even the mildest form of violence is not acceptable. They also urge the President to strictly enforce the Rules of Procedure and object to the use of violence in the Chamber. However, sometimes we have to put up with these malicious acts, since the Rules of Procedure have not specified how to deal with the aggravated acts of violence in the legislature. In this respect, the Rules of Procedure originally assume that Members' behaviour would be rational and law-abiding. Unfortunately, this good intention has been misinterpreted as leniency towards unlawfulness and the flagrant violation of the Council's rules.

Members of the Civic Party said that Mr CHIM Pui-chung was sentenced because of integrity issue, whereas Mr LEUNG Kwok-hung did not act out of self-interest, so he should not be relieved of his duties. While they say on the one hand that even the slightest violence is not acceptable, they try to gloss over Mr LEUNG's violent acts by making up high-sounding excuses on the other. We think this is a fallacy and an attempt to mislead the public. Mr LEUNG Kwok-hung has frequently engaged in violent protests for justice and democracy, but had never been punished by the Court. This time, Mr LEUNG Kwok-hung was sentenced for disturbing order at a public gathering.

Mr Albert HO tries his best to defend Mr LEUNG Kwok-hung's bad behaviour, saying that he did not act out of self-interest and his crime is not so serious that he should not be relieved of his duties. But on the other hand, he

insists on reason and non-violence and opposes using violence to express one's views. Mr CHEUNG Man-kwong also made similar remarks today. While he strongly disapproves of Mr LEUNG Kwok-hung and Mr WONG Yuk-man for sweeping things off the desk in the past, his remarks today show that he also condones their behaviour. Mr Frederick FUNG spoke from his heart yesterday, saying that his supporters scolded him for being photographed with Mr LEUNG Kwok-hung. One cannot even be seen photographed with Mr LEUNG. This shows how people loathe these figures that stand for violent acts. Yesterday, poor Mr Frederick FUNG tried to remonstrate with Mr LEUNG Kwok-hung, telling him not to walk so fast and so far. Actually, they greatly object to this kind of behaviour. But when it comes to voting, he dares not vote in favour. Mr LEUNG Kwok-hung's unbridled behaviour and increasing violence obviously have something to do with the pan-democrats condoning his acts and harbouring him.

Today, this motion was only brought forward because Mr LEUNG Kwok-hung had committed a criminal offence and was sentenced to imprisonment for two months. The incident originated from a farce in 2009, from the unnecessary "five geographical constituencies referendum". Since the public were widely opposed to the willful resignation of Members, which resulted in a waste of public money, they strongly urged the Government to plug the loophole. The public consultation on the replacement mechanism carried out by the Government was a process that embodied the democratic spirit. Anyone who held different views about the replacement mechanism could voice them properly, without having to charge violently into the venue. If we respect the Court's verdict and honour the spirit of the rule of law, we should not call this motion an attempt to eliminate dissent and a political trial. Much less should we compare Mr LEUNG Kwok-hung with Mahatma GANDHI and AUNG SAN Suu Kyi. Such a comparison is an insult to GANDHI and AUNG SAN Suu Kyi.

Thank you, President.

**DR PAN PEY-CHYOU** (in Cantonese): President, Mr WONG Kwok-kin has just stated the stance of The Hong Kong Federation of Trade Unions, and now I would like to express my personal opinions on this issue. I really want to say something about the recent violent acts in the Council and the society.

Personally, I think Mr LEUNG Kwok-hung is a creative political figure. As far as I remember, he is the first one who carried a coffin when expressing political views. If I am wrong, fellow Members can correct me.

He joined the Council as a Member in 2004. Yet, in the Council, he continues to shout, violates the Rules of Procedure (RoP) and uses satirical props to express his political views. I know many people who are against him. They often say that Mr LEUNG Kwok-hung will always makes all kinds of troubles at the beginning of meeting, so as to force the President to order his removal, in this way he can walk out swaggeringly, go to pubs or write football commentaries. All he cares is to "finish off" early so that he can make some real money. However, upon my close observation, I found that Mr LEUNG Kwok-hung expresses himself in an interesting and very often very creative way. I think to a certain extent, his acts can be regarded as performance art.

The advantage for expressing one's views through action is that he can convey his messages clearly and directly. It can be an effective way of communication in a society as busy as Hong Kong. After all, it is not easy to make Hong Kong people understand your message at a glance and share the same feeling. Sometimes, I pay special attention to the props of Mr LEUNG Kwok-hung and find that he has really put in a lot of efforts in their design.

Of course, it is unlikely that every act of Mr LEUNG Kwok-hung is appealing. Yet, we cannot deny that he is distinct and unique, which enables him to attract his own "fans" and supporters. To my knowledge, his "fans" and supporters are not limited to people of a particular age group or social stratum.

I am not sure if you have noticed one point, that is, "Long Hair" — please allow me to call him in this way — was not that violent in the last term when he expressed himself. He was only a bit rough, as commented by Mr WONG Kwok-kin just now. In most cases, he would stop after he had achieved his purpose. The interaction between "Long Hair" and Mrs FAN, the then President, was sometimes quite interesting. It seemed that they had some kind of unspoken consensus. Therefore, he was not criticized for behaving improperly at that time.

However, allow me to quote a vulgar saying "the good taste of boogers will make one pick his noses till it hurts". The success of "Long Hair" to become a

well-off public rental housing tenant has inspired some of those who want to join in politics to follow suit. Soon after the current term of the Legislative Council started, there has been more uproar in the Council. Meanwhile, more Members have acted disorderly when they express their political views in the Council.

The Council is, by nature, a place full of fierce competition. When Members are all fighting for the support of the same group of people or voters, it is natural for us to compete and see who is more radical, violent and out-of-line. Yet, violent expression is just like a taste for spicy food. Too much spicy food will just make people feel that their food is not spicy enough and look for some hotter chillies. Similarly, violent expression will become increasingly violent and hurt the innocent people. Here, I have to speak up again for colleagues of the Legislative Council Security Office because, in recent years, some of them were injured when they tried to stop the violent acts of a few Members.

This kind of violent "reality show" has reached every corner of our society and every family through television and other media. The charisma and popularity of some Members who are present right now have made their violent acts sound reasonable and legal, and some youngsters follow suit.

Therefore, it is not surprising that some people who are discontented with the society and the establishment think that their demands will only be heard unless they use violent means. They turn to ask their idols to lead them in storming the establishment. When they get increasingly violent, they will sooner or later violate the law.

The risk of being prosecuted or penalized is what "Long Hair" and some other Members have to bear as they adopt violent means in political discussion. This time, Mr LEUNG Kwok-hung is sentenced to imprisonment. What role did he play in the incident of forcing into the consultation forum on the replacement mechanism? In the judgment, the Judge has clearly stated that Mr LEUNG Kwok-hung, the First Defendant, had, after forcing his way into the lecture hall, went up to the stage to make appeals and give directions while others were following his instruction. In light of these acts, we know that he was one of the leaders, if not the head. It is evident that Mr LEUNG Kwok-hung had played an important role in this incident.

I think Mr Paul TSE takes a right course of action in moving a motion under Rule 49B(1) of the RoP today. Let us refer to Article 79(6) of the Basic Law. It stipulates that a Member "is no longer qualified for the office" "when he or she is convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Region and is relieved of his or her duties by a motion passed by two thirds of the members of the Legislative Council present".

Just now, Mr WONG Kwok-kin has clearly stated our stance. Given that Mr CHIM Pui-chung was disqualified from office in 1989 under the same Article of the Basic Law and the same rule of the RoP, and his situation was similar to that of Mr LEUNG Kwok-hung today as he was also lodging an appeal then, the case of Mr LEUNG Kwok-hung under discussion today is same as the case of Mr CHIM Pui-chung in 1998. In both cases, the prerequisites for invoking Rule 49B(1) were met, which include firstly, the Member concerned is sentenced to imprisonment by a court in Hong Kong; and secondly, the term of imprisonment is more than one month, exceeding the threshold of one month's imprisonment.

As regards the decision of the Council at that time, Dr Margaret NG had given a clear statement. If we apply the same provision to Mr LEUNG Kwok-hung today, I cannot see any reasons why we have to go against the voting decisions made in relation to the case of Mr CHIM Pui-chung. In my view, as a representative council, we should not handle things in an inconsistent manner, nor should we apply different standards to different people. Otherwise, this Council will lose all credibility.

Mr CHIM Pui-chung was indeed very "mad" yesterday, and I believe that he was just expressing his true feelings. I think he was not furious at his disqualification from office resulting from his imprisonment. He was furious because so many Members were so partial and inconsistent, and handling things in such an unfair manner. Some have argued that the case of Mr LEUNG Kwok-hung was different from that of Mr CHIM, claiming that Mr LEUNG was not pursuing personal benefits but striving for ideologies like human rights, rule of law and democracy; and as pointed out by the Judge in making his judgment, Mr LEUNG was acting in the interest of the public and no personal benefits were involved in his case.

However, I find this argument kind of far-fetched and I am afraid I cannot subscribe to it. Mr LEUNG Kwok-hung is a directly-elected full-time Member, and his duties include expressing views on political subjects, and this can be regarded as accumulating capital for his future political life. As a matter of fact, Mr LEUNG Kwok-hung used to be a street fighter who took actions to challenge the establishment with other people some years ago. Today, he is sitting in this Chamber as a Member. These stages and ladders of life that he has gone through are indeed good examples.

Besides, an offence is an offence. Some Members have already said that his objective should not be used as a defence. The Judge had elaborated this point in his judgment. According to the judgment, as we live in a society with the Bill of Rights, we must respect the freedom of expression, and may take into account this factor in making judgment. However, the freedom of expression cannot override criminal law because such law is needed to maintain the basic order of a society.

Some may argue that the term of imprisonment of Mr LEUNG Kwok-hung is shorter than that of Mr CHIM Pui-chung, and hence he should not be disqualified from office. However, what I want to say is that the Basic Law has already drawn a line regarding the term of imprisonment, that is, the sentence of one month's imprisonment. How can we change this baseline? What are the grounds for doing so? If the Council thinks that the line should not be drawn at a level below two month's imprisonment, why not change it to a sentence of two or three years? It is unreasonable and unjustified.

Judging from the present situation, it is certain that the motion will not get passed today. It is a political reality. Just now, I have said that I welcome Mr Paul TSE's initiative in moving this motion. Yet, he has given a notice that he will vote against the motion. I am fed up by this trick. It is not the first time that Mr Paul TSE does so. The way that "he breaks his left hand with his right hand" raises our eyebrows. I cannot see the point of doing so except that it attracts eyeballs.

If all Mr TSE wants is only to have a discussion on whether Mr LEUNG Kwok-hung should be disqualified from office under Rule 49B(1), and he does not think that Mr LEUNG should be disqualified, the wording of his motion should be: "This Council opposes to relieving Mr LEUNG Kwok-hung's duties as

a Member by invoking Rule 49B(1)". It is possible for him to move a motion like this, and we can still have the same discussion. How come he has to express himself with such a contradictory approach? Yet, I notice that "having his left hand gambled with his right hand" is the unique style of Mr TSE; it is his icon. As for other fellow Members, I hope that we can put aside the controversies among political parties and cast our votes based on facts and reasons.

Yesterday, in this Chamber, when we discussed the motion to censure Mr KAM Nai-wai, I had put aside such controversies and given Mr KAM Nai-wai a positive remark on his performance. Today, in respect of the issue under discussion, I would like to ask all fellow colleagues to consider a question, that is, do you want to convey a message to the public that "the Members of the Legislative Council are fair and impartial with a respect to the spirit of laws"?

I so submit.

**MS CYD HO** (in Cantonese): The removal procedure under discussion today is about disqualifying a Member from his office in accordance with Article 79(6) of the Basic Law. As a matter of fact, this motion must be dealt with seriously because the relevant decision can overrule the voting decision made by members of the public in elections. Therefore, the deliberation process must be based on facts and in accordance with justice.

However, the Council as a whole has failed to do so today. Luckily, according to Article 79(6), our institutional integrity can be safeguarded with the critical support from a small number of Members because the Member concerned would only be disqualified by a motion passed by two thirds of the Members present. Nonetheless, if the majority of Members in the Council cannot decide on the matter according to facts and the principle of justice, they should seriously reflect on their decision, while the public should also closely scrutinize the entire process.

The focus of Article 79(6) is not the term of imprisonment sentenced; instead, it is the additional requirement that the Member concerned would only be disqualified if the relevant motion is passed by two thirds of the Members present. In fact, regarding this requirement about the two thirds or the critical

one third of the Members present, each Member must make a political decision on the motion after in-depth consideration of the entire incident. Hence, a detailed discussion was held by Members in 1998, and the same discussion is also required today.

Why is the reason behind this requirement under Article 79(6) for a decision on the relevant motion to be made through a voting process by the Council after a discussion process, rather than simply deciding on whether the Member concerned should be disqualified on account of the term of imprisonment? Regarding this question, I have sought the views of Mr Martin LEE, Senior Counsel, because he was involved in the drafting of the Basic Law as a member of the then Drafting Committee for the Basic Law. He told me that at that time, he was already quite worried that the SAR Government would invoke an evil law to convict and sentence Members of the Legislative Council who represented public interest in the pursuit of democracy. He was concerned that the SAR Government would prosecute for speech crimes or political reasons, or selectively under the current laws which could easily attract an imprisonment term for one month or more if convicted, and then seek to disqualify the Member concerned accordingly. Hence, at that time, they insisted on imposing the requirement that the relevant motion must be passed by two thirds of the Members present, in order to complete the entire disqualification procedure.

As a matter of fact, numerous offences under the laws of Hong Kong are liable to imprisonment for one month or more. Even a person who commits an offence of littering and refuses to co-operate with the police during the process can be sentenced to imprisonment for one month or more if convicted. Furthermore, in recent years, the SAR Government frequently presses the charge of "assault on police officer" against demonstrators participating in peaceful gatherings for "assault[ing], resist[ing], or willfully obstruct[ing] any police officer in the due execution of his duty or any person acting in aid of such officer" under section 36(b) of the Offences Against the Person Ordinance. If the person concerned put up any resistance or any act to resist arrest, he can be sentenced to a maximum term of imprisonment for two years.

We can find many examples in this regard. For instance, during the course of the movement to defend the Queen's Pier in 2007, two citizens were arrested by the police for "assault on police officer" under the Offences Against the Person Ordinance, and subsequently sentenced to imprisonment for two months and four months respectively. However, I was at the scene and

witnessed the entire arrest process. I witnessed how the two citizens were caught and carried away by police officers, and if they struggled in the process, they were charged with the offence of "assault on police officer", and were sentenced to imprisonment for two to four months. If they were Members of the Legislative Council, and if the procedure under Article 79(6) was activated automatically, they would be relieved of their duties as Members even though they only committed such a minor offence, but were convicted and sentenced. That effectively overrides the decision made by members of the public in elections. Therefore, this arrangement is impracticable. We must consider the matter thoroughly against all the underlying reasons, rather than merely focusing on the duration of the imprisonment term.

What about the ins and outs of this case then? According to records of the Court, Mr LEUNG Kwok-hung was charged with damaging public objects and acting in a disorderly manner. Under the laws of Hong Kong, a person who damages public objects shall be liable for criminal liabilities. I think Mr LEUNG Kwok-hung is willing to serve the sentence because according to the relevant provisions in law, once a particular door was found to be broken, he would be legally responsible.

In addition, he must assume political responsibilities in the matter, which include defending the voting right and the right of expression of the people. Indirectly, that is why Members present today must make a political decision on the motion. My major considerations are that Mr LEUNG Kwok-hung did not act out of self-interest in the matter, no issue of integrity was involved, and he has diligently performed his duties as a Member returned from direct election to safeguard the voting rights of the people. On account of this, I object to the disqualification of Mr LEUNG Kwok-hung.

I must clarify certain expressions and concepts here. Just now, many Members talked about peace, reasoning and non-violence. Of course, they considered Mr LEUNG Kwok-hung extremely violent, non-peaceful and irrational. However, what is meant by peace or even harmony? Does the so-called "peace" mean appeasing the rich and the powerful or going against one's will to accept the unreasonable views of the rulers, or comply with their demands to implement unjust measures or make evil laws which undermine public interest? Does "harmony" mean we must all remain compliant even when facing matters of injustice?

President, I am of course against such concepts. Yet, Members of the pro-establishment camp seem to think that "peace" is equivalent to raising no objection or dissenting views. They even use this means to enhance the violence of the institution. Concerning this matter, the Government is actually depriving the public of their voting right in by-elections through an extremely violent means. Of course, the ruler needs not perpetuate the violence personally because he merely needs to present the relevant policy measures to this Council. By doing so, not only the public's voting right is deprived, but even extremely violent laws, such as the legislation on compulsory land sale and resumption that takes away people's homes and disrupts their means of living, can also be passed in this Council. We once pointed out that these acts might be called "institutional violence". Institutional violence is perpetuated when many extremely violent and unjust acts are committed by people who don the outer guise of "human beings". That is tantamount to playing the jackal to the tiger, and it is something we should not accept.

Nonetheless, as the perpetrators need not get personally involved when taking away people's homes and farmland, or taking away people's votes outside the polling stations, Members can still state their crooked theories here calmly and ignore the facts completely while donning the outer guise of peace and reasoning, and they can even vote to support the perpetuation of these violent acts, so long as the rulers have a law-enforcement agency and a set of procedures in place to perpetuate such violence on their behalf.

On the one hand, the Government perpetuates such violence by mobilizing its civil officers to take away people's rights on a large scale through procedures and institutions. On the other, military officers are deployed, such that the police forcibly suppressed people's right of expression, took away the public's voting right, and used force or even violence against ordinary citizens in the process. However, the majority of Members in the Council do not only rationalize such acts of violence, they even use their votes to legalize the same. These acts of abetment involve no physical contact because the police will do the work on their behalf. Regarding the use of violence by the police in the course of oppressing dissenting views and voices, I have witnessed many cases personally and gained some first-hand experience as well.

I recall that it was a case I witnessed personally in 1996. A female student who was even more petite than I was standing in the lobby of the

Immigration Tower, where members of the public could freely access. She was asked to leave by some police officers, but she refused to comply. Then six male and female police officers in uniform approached her and tackled her with force. I reckon that little girl was some two inches shorter and 10 pounds lighter than me. Yet six uniformed police officers approached her and she was then handcuffed, her throat grabbed and her nose muffled. Eventually, she was even prosecuted for assaulting police officers. How could a girl even more petite than I assault six uniformed police officers physically under such circumstances? Though incredible that might be, she was convicted by the Court and fined for \$8,000. Was that not a case of institutional violence? Civil officers need not get their hands dirty because the police will do the work on their behalf. When some laws are to be enacted in future, or when we want to amend certain legislation, the Government will certainly be protected by the institution, and Members of the pro-establishment camp will come to its defence with their votes.

Originally, the Legislature was duty-bound to uphold justice; yet this Council cannot do so today. Even worse, it cannot even debate and vote on the matter on the basis of facts. Just now, many Members put the blame on Mr LEUNG Kwok-hung for acts committed by other people inside the Hong Kong Science Museum on that day. Even without referring to records of the Court, one can easily see from television footages that there is no way Mr LEUNG Kwok-hung can be accused for committing acts endangering the personal safety of other people on that day. Mr LEUNG Kwok-hung has indeed damaged public objects on that day. That is the hard fact. He is willing to assume the legal responsibility, and he was sentenced to imprisonment for two months. The question we need to consider today is: Given his imprisonment sentence for more than one month, should that reason be strong enough to disqualify him? However, many Members who speak today have, either intentionally or unintentionally, put the blame on Mr LEUNG Kwok-hung for acts committed by other people, such that those who are listening to our debate proceedings now, or who read the Hansard in future, might have the wrong impression that Mr LEUNG Kwok-hung has assaulted other people physically on that day. That is totally untrue. If some Members make those statements in this Council, or if some Members seek to mislead the public with such statements, this Council has clearly failed.

Just now, Mr CHAN Kam-lam said that Members of the pro-democracy camp were beautifying acts of violence. He even claimed that it was exactly

because of our stance of defending a shortcoming that Mr LEUNG Kwok-hung and some other Members have become even more fearless and violent. In fact, we can say the same thing about the pro-establishment camp and the Government by merely changing the subjects of his statement. It is exactly because of the voting support given by Members of the pro-establishment camp in this Council that the SAR Government can act so fearlessly now and use increasingly violent tactics to take away people's rights. I implore members of the public in Hong Kong to recognize this fact clearly.

Regarding the current situation of Hong Kong, it will become increasingly difficult and treacherous to defend the civil rights and political rights of the people. While Members of the pro-democracy camp can hold onto the critical one-third minority of Members present today, I have no idea whether we can still do the same in future. We have seen how the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region has interfered with elections, with many cases of vote-rigging have been revealed. In the upcoming Legislative Council elections, the question of whether we can still hold onto this critical minority in order to safeguard people's rights (*The buzzer sounded*) .....

**PRESIDENT** (in Cantonese): Ms HO, your speaking time is up.

**MS CYD HO** (in Cantonese): ..... will depend on the concerted support from the people.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung has sought my permission to allow him to speak again. Under Rule 38 of the Rules of Procedure, a Member may not speak more than once on a question except in certain situations; "with the leave of the President" provided under Rule 38(1)(g) is one such exception, such that Members will be allowed to speak more than

once. When considering whether this power conferred to me under Rule 38(1)(g) should be exercised, I have reviewed the discussion and decision of the Committee on Rules of Procedure on related issues. In 1998-1999, the Committee on Rules of Procedure of this Council had discussed the matter relating to the arrangements for handling motions moved under Article 79(6) of the Basic Law, as in the case today.

On 13 August 1998, the Committee on Rules of Procedure issued a consultation paper entitled "Procedural Arrangements for implementing Article 79(6) of the Basic Law". It was stated in paragraph 24 that, "As regards the Member concerned [that is, the Member proposed to be relieved of his duties under the relevant motion], it is generally felt that if the Member is able to attend at the meeting, he should be allowed to speak in the same way as any other Members present. The President may, if the Member so requests, allow him to speak for a second time after all other Members have spoken but before the reply by the mover of the motion." That is the contents of the consultation paper.

Having consulted Members' views, the Committee on Rules of Procedure held further discussion on the matter and come to certain decisions. In September 1998, the Committee on Rules of Procedure issued its "Report on the Procedural Arrangements for implementing Article 79(6) of the Basic Law". It was pointed out in paragraph 3.15 that, "..... having regard to the severity of the effect of the motion, the Committee is inclined to allowing ample opportunity for the Member concerned to speak. Since there are provisions in Rules 36(5) and 38 for the President to grant exceptions, the Committee does not consider any need to change existing rules."

If these words are not illustrative enough, we can also refer to the Progress Report of the Committee on Rules of Procedure for the period July 1998 to April 1999, which had stated the meaning even more clearly. Paragraph 2.64 of the Report is about a motion moved under Article 79(7) of the Basic Law. Yesterday, this Council held another debate on a motion moved under Article 79(7) to censure a Member, that is, the motion moved under Rule 49B(1A) of the Rules of Procedure. Nonetheless, as a motion moved under Article 79(6) of the Basic Law was also mentioned in the said paragraph, I will now read out the concerned text as follows, "During the resumed debate, all Members including the Member alleged may speak on the motion. The Member alleged should be allowed to speak more than once, if the Member so requests, as in the case of a motion moved under Article 79(6)." Let me repeat, "The

Member alleged should be allowed to speak more than once, if the Member so requests, as in the case of a motion moved under Article 79(6)."

Given these discussion and decision made by the Committee on Rules of Procedure previously, I decide to allow Mr LEUNG Kwok-hung to speak one more time before the reply by Mr Paul TSE in accordance with Rule 38(1)(g). But before I allow Mr LEUNG Kwok-hung to speak again, I would like to ask once again whether other Members present wish to speak?

**MR CHIM PUI-CHUNG** (in Cantonese): As many other Honourable colleagues are involved and many other things have been mentioned, it is rather unfair to me. As a result, I request to have the opportunity to speak again like Mr LEUNG Kwok-hung.

**PRESIDENT** (in Cantonese): Although a number of Members have mentioned Mr CHIM's case in their speeches, the decision of the Committee on Rules of Procedure which I quoted just now only applies to the Member targeted in this motion which seeks to relieve him of his duties as a Member of the Legislative Council.

Mr CHIM, if I grant your request, should any other Member consider that his view has also been refuted by other Members, he will raise the same request, and it will be difficult for me not to grant such a request. Hence, Mr CHIM, I cannot grant your request.

**MR CHIM PUI-CHUNG** (in Cantonese): In that case, just now why did you ask if any other Members wished to speak?

**PRESIDENT** (in Cantonese): The other Members whom I have referred to in my question are those who have not yet spoken, because according to the decision of the Committee on Rules of Procedure, I may allow the Member concerned, that means Mr LEUNG Kwok-hung, to have the opportunity to speak again after all other Members have spoken, before Mr Paul TSE, who proposed this motion, makes his reply.

Since I do not wish to have other Members speak again after Mr LEUNG Kwok-hung has delivered his second speech, which will make it necessary for me to reconsider whether or not to let Mr LEUNG Kwok-hung speak again, may I ask once more, does any Member who has not yet spoken wish to speak? If not, I now call upon Mr LEUNG Kwok-hung to speak again.

**MR LEUNG KWOK-HUNG** (in Cantonese): I have heard many Members speak on my issue. Mr LAU Kong-wah is not present today, but he has already stated the view of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) rather clearly. First, he has quoted the Judge's words. Yet he has quoted just one of the paragraphs without citing another. Actually what the Judge said is loud and clear. Now let me quote page 24 of the judgment (I quote) (translation): "After careful consideration, the first and the fourth charges of criminal damage" ..... sorry, page 24 should read, "The replacement mechanism, which involves the basic rights of every citizen in Hong Kong, has far-reaching implications, and the dispute has developed into what is called a deep-rooted social conflict. I also understand the worries mentioned by those making their entries. The number of forums held was severely inadequate with insufficient coverage, so they seized the last opportunity and forced entry to the forum to express their aspirations. That is particularly the case for the first defendant. Since some of his previous acts had led to the Government's introduction of the replacement mechanism, he was certainly highly concerned. I also understand that some social movement campaigners would be more fervent and radical, but after all, they were just showing their concern over social problems. None of the defendants in this case had any personal gain. In my opinion, members of the public expressing their views in the forum, elected Members of the Legislative Council assuming their duties to speak for the public, and students, the future masters of society, caring about political affairs were indeed blessings for society. Furthermore, freedom of speech and the right of demonstration are protected under the Basic Law and the Bill of Rights. In Hong Kong society, which upholds the rule of law and freedom, such rights have a very high place among the values of most Hong Kong people." (End of quote) Actually this has answered the question. The Judge has indicated — I do not know if he is right, and I am lodging an appeal — he said he would impose a heavy sentence. That is up to him. If he intends to impose a heavy sentence, it is up to him. Yet he has pointed out that there was no personal gain, and it was

a blessing for society. Has that not answered your question? Why did you make mutilated quotations out of context in your citation?

We have got to understand that this is not the Court. Instead, here we are dealing with a question, that is, whether a Member who has been sentenced to imprisonment of more than one month for committing a criminal offence should be relieved of his duties. Of course, this is a political judgment, but I did not expound on the relevant issues when I repudiated the DAB yesterday. The first issue is political ethics. Many people regard politics as party politics. So, what is political ethics? It is the manifestation of political conscience. What then is the manifestation of political conscience? First of all, do you think the Member, in committing the offence, was fighting against injustice? That is the starting point in the rule of law. It is very simple. I have said it umpteen times here. Secretary TSANG Tak-sing was 400% a political prisoner. The reason is very simple. At that time he distributed leaflets to oppose the colonial rule. How would he not be a political prisoner? Do you think that Secretary TSANG Tak-sing, who has violated a British law in Hong Kong before, should not act as a Director of Bureau? Would you refuse to let him act as a Director of Bureau because he has committed a criminal offence before? The DAB would not concur. Mr IP Kwok-him, please look at me. Stop playing those electronic games. Would you concur? Of course you would not, right?

Another point is, since you have said that the situation of violence in this Council has become increasingly serious and thus I should be punished, why not trigger Article 79(7) of the Basic Law? A Member who is censured for misbehaviour or breach of oath by a vote of two thirds of the Members of the Legislative Council present shall be disqualified for the office. If you all agree, why not directly invoke this provision? Mr IP Kwok-him, if you wish to contribute your humble efforts towards social justice, why not invoke this provision? Such a provision is already available, and there is no need for judgment by the Court.

**PRESIDENT** (in Cantonese): Mr LEUNG, please speak to the President.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, why did they not use ..... President, please tell your fellow party member, why did he .....

What?

(Mr IP Kwok-him rose)

**PRESIDENT** (in Cantonese): Mr IP Kwok-him, what is your point?

**MR IP KWOK-HIM** (in Cantonese): He keeps mentioning my name. May I respond to that?

**PRESIDENT** (in Cantonese): You have already spoken once.

**MR IP KWOK-HIM** (in Cantonese): In that case, please ask him not to keep raising questions which demand my reply.

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

**MR LEUNG KWOK-HUNG** (in Cantonese): Okay. I do not need Mr IP Kwok-him to answer my questions. Why is that the case? That simply shows the cowardice of those who spare no effort to attack other Members in order to shield their own shortcomings. Why not invoke Article 79(7)? It illustrates that even though half of the Members are returned by small-circle elections and manipulated by the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region and the Communist Party to sit here to act as voting machines and rubber stamps, they are defeated in every election with Hong Kong people's resistance. Even if we slacken our efforts to offer a handicap match, they will still be unable to get the support of an absolute two-thirds majority in the Council. If they cannot do so, that provision cannot be invoked.

If he wishes to succeed, he will have to go to the Mainland, since there is a law on the Mainland which will deprive people of their political rights. That will do, will it not? He might as well introduce such a law, right? Anyone who has been sentenced shall be deprived of political rights. Is that feasible? It is feasible, as LIU Shaoqi was deprived of his rights for life. He was accused of being a traitor, covert spy and public enemy. Even if his case was overturned, it would be of no use. If you want to deprive me of my rights, just do it! Since so many National People's Congress deputies have been placed here, there is no harm trying to put such a law in place. Yet I am afraid that some day, it may be used against you in the other way round. Hence, it is not practicable to make use of the law to deprive others of their political rights in the same way which is carried out on the Mainland.

Actually, another issue has come to my mind. Yesterday I was way too agitated. After watching the live broadcast on television, many people said that I was too agitated. So I am going to speak slowly today. BO Xilai's situation is even more "interesting". He did not go through any trial. As soon as the Party said that he had violated the party discipline, he just vanished and was dismissed of his duties right away. He was dismissed not only of his post as the party secretary of Chongqing but also all other official duties. If only there was such a system, I would have to leave at once. You could simply arrest me and say I had committed such and such a serious offence, right, and then invoke Article 79(7).

President, today we are talking about political ethics. A political choice is, of course, made on the basis of political ethics and political conscience, but what choice have you made? First of all, up to the present moment, you still insist that it is right to have the replacement mechanism. It is right not to make any consultation, and it is also right to conduct consultation again, while those who protest against the replacement mechanism, whether in terms of political ethics or political conscience, are all wrong. That is the conclusion. However, despite my objection to the Judge's verdict, which is wrong in my view, the Judge merely said that I should be guilty for what I did. He did not say that I was wrong in terms of political ethics or political conscience.

The crime which you have committed is unlike mine. It is not a personal crime. Nor is it about the criminal law. Rather, it is a kind of original sin, which is supporting the Government to deprive people at any time of the most

fundamental right in society, that is, the right to vote to choose the Government. Everything starts here. Fifteen years have passed since the reunification of Hong Kong. According to Annexes I and II of the Basic Law, Hong Kong should have implemented universal suffrage, but you have blocked it. It was not until the *de facto* referendum was triggered by the resignation of Members from five geographical constituencies that each member of the public could, in the absence of any legislation on referendum, indirectly and submissively express their views on whether genuine elections by "one man, one vote" should be held in 2012 to select their leader, the Chief Executive, who will then form the Government, as well as select a Legislative Council which is entirely returned by universal suffrage. This is the starting point. It is the starting point of political ethics and political conscience.

It is exactly because of such reasons that you have become so exasperated as to support the Government to deprive people of part of their right of election, which is the right of universal suffrage, to which they should be entitled according to the universal values. This is about political ethics and political conscience. It is not an ordinary crime. Today in the Chamber, in order to dismiss me, you blatantly support this kind of political ethics and political conscience. Yesterday I said you were flies and I was an eagle. That is what I meant.

Sometimes you may be right, but you have already stepped into hell. How are you going to talk about benevolence in hell and discuss conscience in the purgatory? That is being faustian. You are allowed omnipotence for three days, but you have to sell your soul. Under such a system, of course you are omnipotent today, Mr FAUST. Your omnipotence will last three days!

President, I will not beg for other people's mercy. All those friends who have defended me or offered defence out of their own political conscience and political ethics — I cannot accept those people who have not made clear their stance today — they have been attacked because of this. I am obliged to tell those people, today, in attacking the ones who consider that I should not be relieved of my duties, they are actually lashing out at people who are protecting our longstanding values to avoid deprivation of our most fundamental rights, especially the right to choose the Government and the right to choose legislators. Such an act is wrong.

President, yesterday Mr Frederick FUNG said that some kaifongs had asked him not to take photos with me. I understand that. My purpose in working as a Member is not to take photos with other people. Many people have requested to take photos with me. You could see that in Facebook. There are numerous of them, but I will not take pride in that. I came here not to take photos but to protect the political ethics and values which I have pledged to uphold in my election campaign. As I have said many times, the fight for universal suffrage is not my ultimate political value, and I have also quoted Maxim GORKY's words before.

President, I know I do not have much time left. Originally, I did not intend to take out this plague. This was given to me by several female students who worked in the Legislative Council. They also gave me a poem entitled "The Road Not Taken" with the Chinese translation. The last stanza of this poem reads:

"I shall be telling this with a sigh  
Somewhere ages and ages hence:  
Two roads diverged in a wood, and I —  
I took the one less travelled by,  
And that has made all the difference."

Mr LAU Kong-wah said that I had pretended to be a hero and set a bad example to the children. I really feel flattered. I have never said that I am a role model, but I know the first thing to do is to behave like a person. How the other people view me is their business. The motto which Karl MARX abided by was: "Let people talk. Follow your own course." Here, I have no need to say that I want to be a model teacher in history. That is your business. All hypocrites wish to be worshipped. KIM II-sung did, so did MAO Zedong. They were perfect men. I do not want to be like that. I just want to fight for the most modest power, that is, to enable people like me to choose their own leader, Government and Legislative Council equally by means of "one man, one vote" and decide their own fate. I do not have any other wish.

President, I heard someone say that I had set a bad example to children and students. What bad things have I taught them? I have only taught them that if anyone wants to deprive them of their most fundamental rights with any reason, they should tell them, "No, thanks!" According to your logic, those university

students in Beijing who set fire to the building Zhaojialou should be executed, and CAI Yuanpei was probably the worst chancellor. Why not hurry to denounce CAI Yuanpei? Why tolerate his act in burning Zhaojialou? Why is that the case?

President, let me quote a few lines from another poem. This poem was written by Mr YU Dafu when he was being pursued by the Japanese. At that time he was about to die:

"Bushes and trees upset by the moaning wind,  
The lonely boat scurried past another shore.  
While tracks in places are easily buried at the end of the day,  
Oars in midstream can hardly redirect their way.  
As though a heavenly mission is drawing near,  
With humility, my weary body will endure the cold and hunger.  
The poem of Zheng Qi I read once more,  
Unlike the road of the sages, mine is wider."

That is all. I am not a sage.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr Paul TSE, you may now reply.

**MR PAUL TSE** (in Cantonese): President, I need to declare interests. The second defendant in the case, Mr WONG Yeung-tat, also known as "Emperor", is represented by our law firm. We represent him on a *pro bono* basis, but I have never discussed this case with the lawyers concerned. Any facts relating to the case or anything about this motion is based on the public records.

Some people, or even Honourable colleagues in this Council, such as the two Honourable colleagues from the Hong Kong Federation of Trade Unions, have respectively asked me earlier why I proposed this motion. Dr PAN Pey-chyou even said that I loved stirring up such things. That is right. I like

stirring up such things because if I think there is something which in principle needs to be done but other people will not do it, I will not refrain from doing it because of political considerations.

President, the first reason why I proposed this motion is that the relevant procedure is an established procedure which aims at maintaining the credibility of this Council. I do not need to dwell on that. Here, I simply need to cite Dr Margaret NG's passionate speech on Mr CHIM Pui-chung's case back then. This is from her speech in the House Committee meeting on 5 August 1998. Dr Margaret NG said, (I quote) "where a Member was convicted of a criminal offence and sentenced to imprisonment for one month or more, a motion should be moved to disqualify the Member in order to maintain the integrity of the Council and to ensure that the operation of the Council would not be affected in any way. In her view, the moving of such a motion was not a discretionary matter and there was no reason to delay the moving of a motion in respect of Mr CHIM's case in accordance with Article 79(6) of the Basic Law." Of course, she is not the only representative of this Council, but being the soul of the Civic Party and also the leader behind a number of Members of the Civic Party, such a remark made by her is significant.

The second reason is, this kind of motion is supposed to be, as a matter of course, moved by the Chairman of the House Committee on its behalf after it has been proposed and endorsed by the House Committee. Just like the earlier motion concerning Mr KAM Nai-wai, this motion should have been proposed by the Chairman of the House Committee, but it does not mean that Members have to support it, since this is what we should do to safeguard the credibility of the Legislative Council. However, to my great regret, this time some Members have spoiled such a chance with all sorts of reasons at the stage of the House Committee. Of course, individual Members will have their own political considerations, but it does not mean that such a motion should not be proposed on this occasion.

Thirdly, since it has already been discussed in the House Committee, why bring it up in the Council? President, the House Committee is the House Committee, the Council is the Council. Many people will not pay attention to the House Committee, yet there will be verbatim records for motions proposed in the Council which some members of the public may read in detail, thereby bearing considerable significance.

Fourthly, Dr PAN Pey-chyou asked why I did not try to propose a motion against the dismissal of Mr LEUNG Kwok-hung, since discussion could also be conducted in this way. Actually it is very simple. Any experienced Member will know that the present motion can be proposed right away and can proceed as long as a sufficient notice period has been given. However, if I adopt the method proposed by Dr PAN Pey-chyou, we will have to draw lots and wait, and there may not be the chance to raise the matter. I do not have time to make such efforts, and such an approach is also not in line with the due responsibility which this Council should take to follow up this matter.

Fifthly, this motion itself carries certain binding power. Similar to the situation when I proposed the motion to impeach the Chief Executive, if there were sufficient justifications, we should work this way. This time we should work this way. Whether we support it or not is a different issue. Legislators or members of the public who are clear-headed should be able to tell the difference. To propose a motion and to support it or not can certainly be viewed at two different levels. As an Honourable colleague mentioned just now — many people are mistaken that it was personally said by Voltaire. Actually it was not, but the meaning is more or less the same — that is, "I disapprove of what you say, but I will defend to the death your right to say it". This can absolutely be treated as two separate issues. We often consider issues with such a "dual" approach. If Members fail to attain such a level, I believe they are not fit and proper to act as Members.

President, why do I think I would object to this motion? I did not mean to stir up troubles. Everything happens for a reason. Firstly, this time this case is pending appeal. It is true that we have a precedent. According to the judgment delivered by Justice KEITH in Mr CHIM Pui-chung's case (HCAL 71/1998), appeal or final judgment will not constitute any hindrance. Moreover, there is no need to wait for all appellate procedures to be exhausted before conducting the disqualification procedure. This is absolutely right. However, the possibility of appeal should be taken into consideration. Of course, as Mr Justice KEITH has clearly pointed out, the decision should be left to the good sense of Members of the Legislative Council.

Secondly, the punishment on this occasion is two months' imprisonment. I am not saying that we need to calculate ..... if it is one month, fine. Why should there be any difference if it is two months? What if it is one year? What if it is two years? That is not what I meant, President. The key point is

that the shorter the sentence, the more we need to consider. Similar to cases under appeal, how come sometimes bail is granted and sometimes it is not? One of the factors of consideration is the actual term of imprisonment. If the term is short, it is highly possible that by the time the appeal is completed, the term imprisonment has already ended. Even if the original verdict is overturned, it is still unfair because the party concerned has already served the sentence and received the punishment. On the contrary, if the term is long, the Court may refuse bail during the appeal because the party concerned has been found guilty. A guilty verdict is a guilty verdict. So long as the record has not been overturned, the party concerned is still guilty. In fact, all solicitors and barristers should understand such a line of thinking. They should not attack me for what I did this time on this ground.

Thirdly, whether an appeal has been lodged is a very significant factor. Justice KEITH has made this point very clear. Owing to an important reason, we have to trigger this mechanism to examine the need to disqualify a Member. The factors of consideration are not only about the Member's personal business but also the people he serves and the electors he serves. That is very important. If he has the chance to be granted bail, he will not lose the chance to serve members of the public. There is a big difference. Unfortunately, Mr CHIM Pui-chung was not granted bail back then. Yet what was more unfortunate was that at that time, this Council was unwilling to wait 12 more days for the decision on Mr CHIM Pui-chung's application for bail to be made before conducting such a debate. It was unwilling to wait, not even for 12 days.

Mr LEUNG Kwok-hung is more fortunate, since he can show up in the debate, he even has the opportunity to speak twice according to the Rules of Procedures. Back then, Mr CHIM Pui-chung had no such opportunity at all, and no one spoke a word for him.

President, in the end we need to consider with our good sense actually how the whole matter should be handled from the perspective of the Legislative Council. Owing to the four major reasons mentioned above, I will object to the motion which I have proposed myself, but that does not mean I am suffering from "early psychosis" as criticized by Ms Audrey EU. I will propose a motion when I think there is the need to do so. We should not refrain from doing it simply because such an act may turn us into the subject of attack or because the one involved is a friend on our side. That is absolutely favouritism. When the motion concerning Mr KAM Nai-wai was proposed, why did you object to it?

How come Long Hair does not even have the chance to explain? In their protest against the Government, the democrats often like to ask, how come there is not even a chance of defence? How come not even Members of the pro-establishment camp have a chance of defence? Now if you object to proposing this motion, that does mean there will simply be no chance of defence?

President, back to our subject matter, Hong Kong society highly cherishes civility, that is, the civilized systems and the degree of civilization in society. Yet regrettably, Hong Kong society has witnessed regression, a backward development in recent years.

Many Honourable colleagues have said righteously that this is a fight for democracy and criticized the judgment as political suppression. However, I actually did not hear any Member of the Civic Party ..... at least they would not cross this line and criticize that the judgment was wrong. Yet other Members in opposition seem to attack the judgment recklessly. On the one hand, they keep saying that we have to respect the rule of law, but on the other hand, when the result of the rule of law is not favourable to them, they will call it political suppression, political persecution or judicial persecution.

As for the case mentioned by Ms Cyd HO just now, I have seen hundreds of thousands of them — all lawyers have seen many such cases. When I said hundreds of thousands of them, of course it was an exaggeration. If we just look at one or two cases, of course sometimes there may be a wrongful case, but that does not mean Hong Kong's present judicial system has regressed to such a point which gives rise to judicial persecution or suppression. If there is this kind of situation, please produce such proof and state it clearly. From now on, if Members want to do anything, which includes alleging that the interpretation of the Basic Law is against the rule of law, please state clearly that Hong Kong's judiciary has regressed to such a stage. Do not say that the judiciary stands above all when you find it in your favour, and say that there is judicial persecution when you find its judgment unfavourable. Members of the public will not accept this kind of saying.

President, during the course of the debate I have heard many names, such as GANDHI, AUNG SAN Suu Kyi, Martin Luther KING, MANDELA and so on. I agree with what some of the Honourable colleagues have said, that mentioning these names in the same breath is indeed degrading these people. What we are talking about right now is not this kind of situation. I have noticed

that what Mr LEUNG Kwok-hung did was not civil disobedience. It is necessary to draw a line to set the boundary, so as to determine at what time it is civil disobedience and at what time it is the use of violence to fight for one's own political stand and even interests.

Many Honourable colleagues said that no interest was involved. May I quote Dr Margaret NG's words, which were also said by her last time during the debate on Mr CHIM Pui-chung's motion. There is nothing better than citing what the speaker said that day. In the debate on 9 September 1998, Dr Margaret NG said, "A public office is an interest. It carries with it remuneration, social status, prestige and perhaps other benefits." As we know, public office will attract votes itself and is advantageous under the proportional representation system. There will be benefits in holding public office. So do not say that there was absolutely no interest involved.

Another point is, someone said this is a matter of integrity. Just now Mr Paul CHAN made a very good point. There are a lot of criminal cases which do not involve the issue of integrity, but they are still not accepted by society. Let alone big cases like murder, rape and robbery. Even traffic cases like reckless driving and drink driving causing serious injury or death may receive heavy punishment of more than one month's imprisonment at any time. Is it that such cases can never trigger this mechanism?

There are many more cases, such as child abuse and neglect — now we know there are many cases which may happen — contempt of court and so on. Of course, not every case will be put into the "automatic gear". This is something which we absolutely need to admit. However, do not forget that we must work according to the rules and trigger this mechanism when the opportunity arises. Only then can we maintain the credibility and consistency of the Council.

President, another double standard which I must mention is Dr Margaret NG's double standard. Mr IP Kwok-him has already mentioned it earlier. Yet I consider it a very important standard, because she said that the motion concerning Mr CHIM Pui-chung moved by Dr LEONG Che-hung at that time was "not founded on what Mr CHIM has done to deserve conviction" — that is to say, there is no need to pay attention to any reasons or the sentence — "but the fact that he has been convicted and sentenced" — the fact speaks for itself. That means since there is such a fact about him, we need to take action — "I see no

need in this debate to make any moral judgment on Mr CHIM". What she meant was that we should be morally neutral. We should not pay attention to any moral standard. So long as there is such a fact, we should work accordingly. This was the criterion set by Dr Margaret NG back then. Of course, she is not God. She was only a Member then. Yet what she said can serve as our good reference. It can also reflect the hypocrisy in the attitude adopted by the Civic Party and the pan-democrats today.

Just now I also mentioned the reason why I think we need not follow the precedence this time. Yet I hope Members in opposition should, first of all, rack their brains and analyse the various levels of the matter clearly. Do not be so shallow as to think that I should not propose the motion and then vote against it.

Then, in formulating the standard, please think about the consequences carefully. Do not always put a moral aura above yourself and talk as though you are invincible but withdraw immediately when you have to do the work or when you got hurt yourself. Dr Margaret NG is a remarkable barrister and Member, but she is the best at saying one thing and doing another. It can also be said that she has overturned today what she stood for yesterday. When she criticizes me as speaking incoherently or accuses me of proposing the motion for no good reason, please ask her to think; when Members of the Civic Party criticize me for having an ulterior motive, please ask them to think about their attitude in the Hong Kong-Zhuhai-Macao Bridge case, the case of "doubly non-permanent resident pregnant women", together with the case of non-local domestic helpers which is under our current discussion; please ask them to think about their ulterior motive in the "five geographical constituencies referendum"; please ask the Honourable colleagues of the Civic Party to reflect on themselves.

**PRESIDENT** (in Cantonese): Before I put the question, I wish to remind Members that in accordance with Rule 49B(3) of the Rules of Procedure, the passage of this motion to relieve a Member of his duties shall require a two-thirds majority vote of the Members present.

Mr LEUNG Kwok-hung has indicated in his speech yesterday that he has a pecuniary interest. According to Rule 84(1A) of the Rules of Procedure, a Member shall withdraw when a vote is taken on a question in which he has a direct pecuniary interest.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, of course I will withdraw, since you have ruled that I have a pecuniary interest. However, I must declare one point. What is being dealt with today is not my direct pecuniary interest. Instead, it is an indirect interest, which is the remuneration received from my public office, and what is being dealt with today is my seat as a Member. Nevertheless, I will save my breath not to argue with you any more. I choose to leave because there is no point in arguing. I think you are actually wrong. Why did I say so?

**PRESIDENT** (in Cantonese): Mr LEUNG, please stop arguing.

**MR LEUNG KWOK-HUNG** (in Cantonese): I will withdraw after I have finished. That is, I will reserve my right to appeal.

**PRESIDENT** (in Cantonese): I will not give any ruling on whether a Member has any direct or indirect pecuniary interest in a question which has been put up for vote. According to the Rules of Procedure, if the Member concerned has stayed to vote and any other Member considers that the Member concerned must withdraw owing to his direct pecuniary interest in the question put up for vote, the other Member may move a motion for withdrawal. If a Member has moved a motion for withdrawal, the decision shall lie with the Council. I did not give any ruling on such a situation today. However, I would like to remind Mr LEUNG that he has indicated in his own speech yesterday that he has a pecuniary interest.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr Paul TSE be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Paul TSE rose to claim a division.

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

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

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

Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Mr TAM Yiu-chung, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Ms Starry LEE, Mr CHAN Hak-kan, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him and Dr PAN Pey-chyou voted for the motion.

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Ms Emily LAU, Ms LI Fung-ying, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr Paul CHAN, Mr CHAN Kin-por, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr Paul TSE, Dr Samson TAM, Mr Alan LEONG, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted against the motion.

Dr Raymond HO abstained.

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

THE PRESIDENT announced that there were 46 Members present, 19 were in favour of the motion, 25 against it and one abstained. Since the question was not agreed by a two-thirds majority of the Members present, he therefore declared that the motion was not endorsed by a two-thirds majority of the Members present.

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

I now call upon Mr LEE Cheuk-yan to speak and move the motion.

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

**MR LEE CHEUK-YAN** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. The motion aims to seek this Council's approval for invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to inquire into two issues involving LEUNG Chun-ying: First, the renewal of the licence of Commercial Radio; second, the enactment of legislation on Article 23 of the Basic Law.

Although the contest of Henry TANG and LEUNG Chun-ying in the Chief Executive Election had concluded, some remarks once said should not be regarded as things in the past. What were those remarks? As we all know, in the "free fighting" session at the election forum, Henry TANG hurled a question at LEUNG Chun-ying, "I wish to ask you, when the Government was considering the renewal of the licence of Commercial Radio back then, you proposed to shorten the licence renewal term in an attempt to suppress freedom of speech by administrative means. This is a really horrible tactic. How can you ask the people of Hong Kong to believe in you?" LEUNG Chun-ying replied at once, "I believe what you have read was the press report but not the minutes of the Executive Council." Henry TANG immediately said, "Don't lie to us! A high-level meeting was held at the time. I was present. There were other people present as well. Let me give you one more chance. Have you made such remarks?" This issue is related to the renewal of the licence of Commercial Radio.

The second accusation is about LEUNG Chun-ying's remarks at a high-level meeting to discuss whether legislating on Article 23 should be pushed ahead in the wake of the march by 500 000 people on 1 July 2003. At the election forum, Henry TANG hurled a question at LEUNG Chun-ying, "Have you said that anti-riot squad and tear gas would eventually be used against protesters one day?" LEUNG Chun-ying replied at once, "I have not said so." Henry TANG said, "You lie! Many people have heard this remark." LEUNG Chun-ying said, "You are making things up." He then commented that making the remark of using anti-riot squad was beyond one's imagination. President, the above dialogues between TANG and LEUNG have provoked uproar among the public. They clearly know that one of them is telling lies. The question is: Who is the liar? This is one of the purposes of our inquiry into these issues.

We wish to achieve two major purposes by invoking the P&P Ordinance to conduct an inquiry. First, we want to conduct an integrity check in order to determine who has lied. Is LEUNG Chun-ying a man of integrity? Did he lie? If LEUNG Chun-ying, being our future Chief Executive, blatantly lied at the election forum and blatantly deceived the public, his integrity is a serious matter of concern. The second purpose concerns the core values of Hong Kong. Freedom of press and freedom of speech are the major concerns of every one of us. Otherwise, the march against legislating on Article 23 years ago would not have attracted the participation of over 500 000 people to express their concern over the core values of Hong Kong, and whether our freedom would be strangled and suppressed. I propose this motion to inquire into these two very important issues, and the inquiry must be thorough and complete.

Now, I wish to talk about the respective background of these two incidents to bring back Members' memories. I would first talk about the background of legislating on Article 23. The Government intended to push ahead the enactment of legislation back then. In the end, over 500 000 people — some say 1 million — took to the streets on 1 July. At the time, I was one of the advocates for surrounding the Legislative Council Building on 9 July in a bid to safeguard our freedom. In the period between 1 July and 9 July, the Executive Council met. But what happened at the meeting? At the time, rumour had it that there would be bloodshed. If an inquiry is conducted, Mr WONG Yuk-man should be a witness because he said that Donald TSANG had called him and asked him not to talk about Article 23 anymore in the radio programme. He further said that there might be mishaps, things might go wrong and there might

be bloodshed on 9 July. Why did they think there would be bloodshed on 9 July? Why? Did the Government arrive at a decision that bloodshed was inevitable? Did the Government arrive at a decision that anti-riot squad and tear gas would be used? Mrs Regina IP mentioned a technical wording, saying that the term "anti-riot squad" was not used in Hong Kong. Then perhaps I should use the more official term "blue berets"! I should say "blue berets" and tear gas! Exactly what had happened that rumours about bloodshed were going round the city? One of the purposes of conducting an inquiry is to find out what had actually happened back then.

LEUNG Chun-ying, of course, denied that he had said about using anti-riot squad. This is what he said at the forum, and we really have to listen to how politicians speak. He said, "I have not said about using anti-riot squad and tear gas against peaceful protesters." This is what he had said. He put emphasis on "peaceful protesters". Actually, he could say that "sooner or later we have to use anti-riot squad and tear gas", but what he said was "I have not said about countering peaceful protesters". This is purely a speaking technique. Had he made such a remark? Exactly what was in his mind? It is really necessary to inquire into these issues.

Let us think about this, LEUNG Chun-ying makes one scared. Despite the fact that he has been in public office for 30 years, he remains mysterious. People do not know what is in his mind and find it difficult to tell whether he is speaking the truth or not. This is because he never makes any comment. I have once said that if a person does not declare his stance even when he was young, he must be unfathomable. As we all know, he seldom made his stance known when he was young. The only time he did so was posting an advertisement concerning the 4 June incident. Other than that, he has never declared his stance. However, he has risen all the way to the top governing level. Being the Convenor of the Executive Council, he still remains mysterious. No one knows what is in his mind and how he views the core values of Hong Kong.

Next, I would talk about the background concerning the licence renewal of Commercial Radio. The background of this incident is plain and clear. The licence of Commercial Radio was due to expire in August back then. Ms Emily LAU wrote to the then Secretary for Commerce, Industry and Technology Henry TANG, expressing concern about the hearsay that Commercial Radio's licence

renewal was met with considerable resistance as a Member of the Executive Council queried about the proposed 12-year renewal term, resulting in the return of the application to the Commerce, Industry and Technology Bureau for reconsideration. Which Member of the Executive Council had raised this query? Ms Emily LAU mentioned in her letter about someone opposing the 12-year licence renewal term of Commercial Radio. Who actually stood in the way? No names were disclosed. But how did the Commerce, Industry and Technology Bureau reply? Henry TANG's reply was very subtle. I will read it aloud, "The Executive Council has yet formally discussed the renewal issue at any of its meetings so far." Note the following sentence. He said, "As far as I know, some Unofficial Members of the Executive Council meet informally from time to time to exchange views on matters of concern." Who were "some Unofficial Members of the Executive Council"? Who was the Convenor? It was LEUNG Chun-ying. As we all know, as the Convenor of Unofficial Members, LEUNG Chun-ying often called Members together to discuss matters handled by the Executive Council. Therefore, LEUNG Chun-ying was playing tricks. He challenged Henry TANG by asking him to provide records of the Executive Council as evidence. But he knew too well that there were no such records of the Executive Council because the matter was not discussed in the Executive Council. The proposal of the licence renewal was already strangled during the exchange of views among Unofficial Members of the Executive Council. As to why the licence of Commercial Radio could eventually be renewed for 12 years and what had happened during that period of time, we do not have any idea. So, it is not at all surprising that he said there were no records of the Executive Council because the matter was not discussed at all. In fact, what he denied was that there were records of the Executive Council. Of course, in the end, he denied such things had happened. In this case, this Council can inquire into the matter to see if he was playing on words again. On the other hand, SIN Chung-kai said in a press interview that he had heard of this matter about nine years ago. Exactly what had happened? It is necessary for us to inquire into these matters.

Certainly, Members will later talk about the principle of confidentiality of the Executive Council. If details of the discussion of the Executive Council can be disclosed recklessly, Members will no longer feel at ease to speak their mind freely. Such a view is really scary. If this is the case, it means the Executive Council can say anything behind closed doors without the need to bear any responsibilities. It does not need to bear any responsibilities even if it betrays

the people of Hong Kong; even if it barters us away. Does it mean that any Members of the Executive Council can speak rashly? Is this the case?

Members have to note that there is actually precedent for disclosing the minutes or the discussion items of the Executive Council. It happened in the cases of SARS as well as the West Kowloon incident. Why did you not object to disclosing the minutes of the Executive Council concerning SARS? Obviously, given that it is a matter of public interest, the principle of confidentiality cannot override public interest. I hope that Members will think thoroughly before arguing with me. Members will definitely raise such an argument later. However, is the principle of confidentiality of the Executive Council sacred and inviolable? Can the Executive Council evade responsibilities even if it talks nonsense behind closed doors?

Another reason you may give is that this incident is past history and we should look forward. This reason is really ridiculous. Concerning the KAM Nai-wai incident, why have you not looked forward? By comparison, we know that a double standard is at play. If you later vote down the motion I propose on invoking the P&P Ordinance — it looks like the motion will be voted down — you have to explain why you can apply a double standard. Why have Members inquired into the incident of Mr KAM Nai-wai's sacking of an assistant due to the so-called unrequited affection? At that time, Members said that it was a matter of integrity. What is wrong with the integrity of Mr KAM Nai-wai? Of course, something did go wrong with his sacking of the assistant. However, even when the female assistant was not willing to come forward, Members still insisted to proceed with the inquiry. The present case is very serious in nature, it involves the using of tear gas and anti-riot squad and the opposition of the proposed licence renewal of Commercial Radio. Yet, you do not find it serious, you do not find the issue of integrity important, you do not find freedom important, and therefore you do not consider an inquiry necessary. In my view, it comes down to only one conclusion: applying a double standard; "fawning on the superior and treading on the inferior". Now that LEUNG Chun-ying is the Chief Executive-elect, no one dares to subject him to an inquiry. Is this the case? Now that the "great reconciliation" is in progress, Members are even more unwilling to subject him to an inquiry. This "great reconciliation" is deceptive. It is a great reconciliation in the pro-establishment camp, not with the public. Therefore, I believe today's meeting is a mirror to reflect on how people speak in opposition to the inquiry on LEUNG Chun-ying.

Lastly, I wish to talk about one more issue. Many Members have mentioned just now official secrets, the principle of confidentiality of the Executive Council, and so on. I wish to propose the enactment of a piece of legislation in Hong Kong, and that is, the "informant protection law", or the so-called "whistleblower protection law". The "whistleblower protection law" is already in place in the United Kingdom, Australia and the United States. However, in Hong Kong, similar provisions are only found within the narrow scope of the Prevention of Bribery Ordinance. If the scope of the protection law extends to cover all matters involving public interest, civil servants, Members of the Executive Council and anyone who provides information will feel at ease to provide information. I think the relevant law can be two-pronged, first, informants will not be held accountable for criminal responsibilities for the disclosure of secrets, and second, they will be protected against future revenge. Only with the enactment of such a law can the public interest of Hong Kong be really protected. The invoking of the P&P Ordinance for the inquiry I have proposed today also aims to protect public interest. I hope that Members will render their support. Thank you, President.

**Mr LEE Cheuk-yan moved the following motion: (Translation)**

"That this Council appoints a select committee to inquire into whether any Member of the Executive Council or public officer had, in the course of approving the renewal of the sound broadcasting licence of Hong Kong Commercial Broadcasting Company Limited in 2003, proposed the shortening of the licence renewal term or any other administrative means in an attempt to suppress freedom of the press and freedom of expression, as well as related issues; and to inquire into whether any Member of the Executive Council or public officer had, in the course of deciding whether to resume the Second Reading debate on the National Security (Legislative Provisions) Bill in 2003, mentioned the use of anti-riot squad and tear gas against protesters, as well as related issues; and that in the performance of its duties the committee be authorized under section 9(2) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) to exercise the powers conferred by section 9(1) of that Ordinance."

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

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the motion proposed by Mr LEE Cheuk-yan involves two incidents in 2003, including:

- (1) The renewal of the sound broadcasting licence of Hong Kong Commercial Broadcasting Company Limited (Commercial Radio); and
- (2) The decision made by the authorities on the resumption of the Second Reading debate on the National Security (Legislative Provisions) Bill.

I would give an account of the licence renewal of Commercial Radio first, the Secretary for Security will then speak on the remaining issue.

Section 13E(1) of the Telecommunications Ordinance (Cap. 106) provides that for any sound broadcasting licences, in not less than 15 months before the date for any renewal of a licence or such shorter period as the Chief Executive in Council may permit, the Communications Authority (CA) has to submit recommendations to the Chief Executive in Council concerning the renewal of the licence and the terms and conditions to be imposed. Having considered the recommendations submitted, the Chief Executive in Council will make a decision.

In 2003, as the licences of Commercial Radio and Metro Broadcast Corporation Limited (Metro Radio) were due to expire on 25 August 2004, the then Broadcasting Authority (BA), that is, the predecessor of the CA, processed the two applications for renewal in accordance with the legal provisions and established procedures, and submitted the recommendations to the Chief Executive in Council. Approval for the renewal of the licences was given by the Chief Executive in Council in July 2003 for a term of 12 years starting from 26 August 2004 to 25 August 2016.

In accordance with the relevant licensing and regulatory system, the BA had, in considering the application for licence renewal of Commercial Radio and Metro Radio, reviewed the performance of the licencees in respect of compliance with the legal provisions, licensing conditions, codes of practice and investment commitments. Moreover, in order to gather public opinions on the two

licences' services and to gauge public expectations of sound broadcasting services, the BA conducted an opinion poll on broadcasting services in early 2002. It also carried out consultation with 18 District Television and Radio Consultative Groups in June 2002, and held a public hearing in December 2002.

Based on the records of compliance of Commercial Radio and Metro Radio, and the public opinions on the services of these two broadcasters, the BA found their performance satisfactory. Therefore, it submitted recommendations to the Chief Executive in Council to renew the two licences for 12 years and to conduct a mid-term review six years subsequent to the renewal (that is, in 2010). To conduct a mid-term review for a sound broadcasting licence has been a long-standing practice and is not a new arrangement. In the course of renewing the licences, the BA did not recommend any major amendments to the existing terms and conditions of the licences. Approval for the relevant recommendations was given by the Chief Executive in Council on 22 July 2003. The Legislative Council Brief was issued by the Government on the same day.

President, the provision of radio broadcast through the terrestrial airwaves involves the effective use of the frequency spectrum, which is a kind of valuable public resources. The broadcasting licensing regime aims to ensure that broadcasters can make good use of the allocated frequency spectrum to provide broadcasting services in an orderly and responsible manner. Therefore, in granting a new broadcasting licence or renewing a licence granted, the Chief Executive in Council will always consider the recommendations submitted by the BA in accordance with legal provisions and in the light of public interest before making a decision. When considering the renewal of the licences of Commercial Radio and Metro Radio in 2003, the authorities had adopted the same practice in granting a new broadcasting licence and renewing licences.

As I have explained to Members just now, when considering whether or not a licence should be renewed, and if so, the length of renewal, the authorities have to take into consideration a basket of factors, among which the most obvious are the financial sustainability of the licensee and its further investment commitment to the licenced services. Therefore, to say there is an inevitable link between the length of renewal term and freedom of press and freedom of expression is groundless. Freedom of speech and freedom of expression are the core values of Hong Kong, they are the foundation of the stability and prosperity of Hong Kong, which are specifically protected in the Basic Law. The

Government has all along been determined to uphold and safeguard these core values.

President, just now I have given a clear account of the procedures for processing the licence renewal of Commercial Radio by the authorities in 2003. Those were long-standing procedures which equally applied to the licence renewal of different broadcasters. Therefore, we think it is absolutely unnecessary to invoke the Legislative Council (Powers and Privileges) Ordinance to appoint a select committee to inquire into the matter. As regards the discussion details of the Executive Council's deliberations on the application for the renewal of individual licences, the SAR Government will not make any comments, so as to keep in line with the principle and practice of confidentiality which has all along been adopted by the Executive Council.

President, my speech ends here for the time being. I will make additional remarks after listening to Members' speeches. Thank you, President.

**SECRETARY FOR SECURITY** (in Cantonese): President, in view of the recent public concern over the principle of confidentiality of the Executive Council and the enactment of legislation to implement Article 23 of the Basic Law, I would like to give a brief response here.

The Executive Council is authorized under the Basic Law as an organ for assisting the Chief Executive in policy-making. The importance of the principle of confidentiality lies in ensuring that Members of the Executive Council can, without any pressure, speak freely and honestly in expressing opinion and giving advice to the Chief Executive for his full consideration when assessing the pros and cons of policies. Therefore, the principle of confidentiality of the Executive Council is vital to the policy-making and effective operation of the SAR Government. It is also a matter of great public interest, which must be sternly upheld and respected, and should not be violated.

In response to public concern over the principle of confidentiality, the Executive Council issued a statement earlier through its secretariat to reiterate that confidentiality provides the foundation for the effective operation of the Executive Council and Members of the Executive Council are duty-bound to comply with this principle.

To keep in line with the principle and practice of confidentiality of the Executive Council, the SAR Government will not make any comments on individual cases or any agenda items and deliberations of the Executive Council.

We have also noted the different public opinions expressed recently on the enactment of legislation to implement Article 23 of the Basic Law. According to Article 23 of the Basic Law, it is the constitutional responsibility of the SAR to enact legislation to safeguard national security. However, as repeatedly stated by the Government, the SAR Government does not have a work schedule at present for legislating on Article 23. When launching the legislating work on Article 23 in the future, the SAR Government will definitely fully consult the various sectors in the community, in a bid to win extensive understanding of and approval for the legislative proposals.

It is clearly stipulated in the Basic Law that — as just mentioned by Secretary SO and I would like to reiterate again — Hong Kong residents shall have freedom of speech, of assembly, of procession and of demonstration. To safeguard these freedoms is the core value of Hong Kong. The SAR Government will, as always, do its utmost to uphold these core values to ensure the public will continue to enjoy various freedoms to express opinion. Therefore, in launching the legislating work on Article 23 in the future, the Government will definitely ensure that the draft legislative proposals will comply with the provisions in the Basic Law concerning the protection of various rights, as well as other related international conventions.

President, my speech ends here.

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

**MR LEE WING-TAT** (in Cantonese): President, I speak in support of Mr LEE Cheuk-yan's motion.

This incident which we call "Rashomon" was a massive bomb in the Chief Executive Election. It is because two heavyweights in society were involved, namely former Chief Secretary for Administration Henry TANG, and the former Senior Member of the Executive Council cum the Chief Executive-elect. Both of them are the top echelons in the government hierarchy.

Mr Henry TANG pointed out during the television debate that in considering the renewal of the licence of Commercial Radio, LEUNG Chun-ying had mentioned shortening the licence renewal term; and in examining issues concerning legislating on Article 23 of the Basic Law, LEUNG indicated that he did not rule out the possibility of proposing the use of anti-riot squad and tear gas. The remarks are really shocking as the core values upheld in Hong Kong have been violated, which include the right to enjoy full freedom of expression by the media. This right is given to broadcasters by society because only broadcasters and the press have more chances of questioning those in power, including government officials and Members of the Executive Council and the Legislative Council, so that they have to be more cautious in exercising their power and be accountable to the public.

Moreover, Mr TANG also said that Mr LEUNG proposed to use tear gas and anti-riot squad against people marching in opposition to legislating on Article 23. This is an even more serious accusation. Members should remember that from 1949 until now, apart from the riot that broke out in Hong Kong in 1967 — the riot in 1967 was not simply a local livelihood and political movement, it was related to the Cultural Revolution in the Mainland, in which local leftist organizations, under the influence of or directed by the movement in Mainland, or dictated by their feverish leaders, had acted radically and violently — no violent scene has been seen in local movements to strive for better livelihood or in democratic campaigns. The more serious conflicts are just jostling and shoving between the police and protesters before the barricades.

In the 1 July march in 2003, over 500 000 people took to the streets in Hong Kong. After the protest, not even one window of the shops along the entire march route was found broken. In fact, the international press queried whether it was true or not. When 500 000 people took to the streets and along the march route, there were rubbish bins, posters and signposts, all of which could be moved, kicked, damaged and even smashed by rocks, yet, none of these things had happened. In fact, this is something the people of Hong Kong are proud of. We gathered together to force the Government to give up the enactment of the legislation that ran counter to people's aspirations and deprived people of their rights.

Mr LEUNG is not a greenhorn in politics. In his twenties to thirties, he was involved in many consultation works in respect of the Basic Law. Later, he

even became the Secretary General of the Basic Law Consultative Committee. Therefore, he should have a clear idea about the social ideology of Hong Kong. Hong Kong people are peace-loving citizens, they will not resort to violence no matter how heavy the pressure they face. Therefore, if Mr TANG's accusation is true, it will be very serious. In particular, given the peace-loving nature of Hong Kong people, any persons in politics or in power who have the idea of using tear gas and anti-riot squad in their mind is indeed terrifying.

There are comments or as stated by the Secretary just now that disclosing the proceedings of the Executive Council is undesirable; and a debate should be held. The focus of the debate is whether great public interest is involved that makes it necessary to disclose the proceedings or documents of the Executive Council. As pointed out by Mr LEE Cheuk-yan, this is not without a precedent. The first incident happened during the breakout of SARS. The second incident did not involve LEUNG Chun-ying but LEUNG Chin-man. In the select committee to inquire into the incident of LEUNG Chin-man, some Executive Council documents at the time were disclosed. Of course, those parts with sensitive information were deleted. However, the disclosed information enabled the select committee to learn about the discussions of Mr TUNG Chee-hwa or Mr Michael SUEN on the incident of Hung Hom Peninsula, as well as the relevant exchanges in the Executive Council. Since the disclosure of those documents, there had never been comments criticizing that such practice would affect the operation of the Executive Council. Instead, the select committee could get the most accurate information and papers concerning the incident of Hung Hom Peninsula.

President, therefore, I think Mr Ambrose LEE's argument does not stand because my premise is that Mr TANG's accusation against Mr LEUNG's saying of using tear gas and anti-riot squad is much more serious than the incident of Hung Hom Peninsula. The reason is that the integrity of the future Chief Executive is involved. If he can lie before millions of television viewers in an open debate, I do not know whether this Chief Executive will use other secretive means to deal with political dissidents, or even use some other means to suppress peaceful protesters or people voicing different views.

President, actually Mr Gregory SO has not provided new information in his speech just now. He only mentioned two points. The Bureau then did not suggest shortening the licence renewal term. I do not doubt the accuracy of this piece of information as the head of the Bureau at the time was Henry TANG.

He did not suggest shortening the licence renewal term. The crux of the matter is whether anyone had put forward such a suggestion during the discussion in the Executive Council. If so, what were the reasons? He said just now that financial strength is the major consideration for granting and renewing of a licence. But, this is not the whole picture.

In fact, as we all know, Mr Albert CHENG and Mr WONG Yuk-man worked in Commercial Radio at that time and they used the morning and evening broadcasting sessions to level severe criticisms of TUNG Chee-hwa's administration. Everyone engaged in politics ..... unless Mr SO claimed that he has never engaged in politics or he did not engage in politics at that time. Actually I have no idea what post he held in the DAB back then. However, people in the political sector, the Government, the Legislative Council and even the media all knew that the Government was deeply unhappy about Albert CHENG and WONG Yuk-man's incessant criticism of the Government in the morning and evening, as well as their constant appeal to people to participate in the 1 July march. This was something known to all. Back then, many friends in the political sector who dined and chatted with us said that people inside the Government — certainly those in the top positions — strongly detested these two commentators, almost to the extent of wanting to have them removed. Of course, both of them were actually removed in the end. As to how they were removed so that they could not continue to host programmes at Commercial Radio, this is not the subject for debate today. However, apparently, they quitted not out of their own will but they were under political pressure.

The top governing team at that time included TUNG Chee-hwa and Members of the Executive Council because the Chief Executive in Council was responsible for formulating all policies. The Bureau represented by Henry TANG did voice its opinions but I am absolutely not surprised if Members of the Executive Council, or even Senior Member LEUNG Chun-ying had voiced their comments on this issue. It was alleged that LEUNG expressed great discontent in private against these two people's strong criticisms of the Government. Of course, he did not do so in public. However, as far as I know, he was greatly unhappy about them.

During the television debate, LEUNG Chun-ying said that he did not suggest shortening the licence renewal term to three years. I totally agree with Mr LEE Cheuk-yan that Mr LEUNG Chun-ying excels in language skills, hence enabling him to mislead members of the public. One of the examples involves

the President of the Legislative Council. I wonder if Members still remember that after the exposure of the unauthorized basement of Henry TANG, there were discussions in society about the possibility of a third candidate. I remember that at the time, reporters approached the President and asked him whether he would run in the election. He replied that he would give it a thought. At a press conference held on the same night, a reporter asked LEUNG Chun-ying, "Mr LEUNG, have you called President Jasper TSANG to persuade him not to run in the Chief Executive Election?" Mr LEUNG replied, "I have not called President Jasper TSANG to ask him not to run in the Chief Executive Election." Afterwards, I listened with my own ears to the remarks made by the President in public, saying Mr LEUNG Chun-ying did call him, not once but twice. However, he did not call him to ask him directly not to run in the election. Mr LEUNG's reply made people think that he did not call the President at all. However, the fact is that he did call but he did not make the ensuing remarks. Of course, I am not in a position to teach that reporter how to ask questions. However, every remark made by LEUNG Chun-ying in future must be subject to cross-questioning. Although he did not call President Jasper TSANG to persuade him not to run in the election, he did call President TSANG to tell him he learnt that someone had got hold of some negative materials of President TSANG in the past. We can thus see how he excels in mastering language skills. Therefore, in future, after listening to LEUNG Chun-ying's remarks, we have to interpret them word by word, otherwise, we will be misled.

Therefore, what he said in the television debate on that day might not be lies. He might not have said anything like "shorten the licence renewal term of Commercial Radio to three years" at all. However, he might have requested to shorten the licence renewal term of Commercial Radio. Perhaps, he queried in the Executive Council why it was necessary to renew the licence of Commercial Radio for such a long period of time. In fact, there are many different ways of making such comment. I do not wish to continue to discuss the number of ways to make such comment, because his language skills are excellent. Therefore, it is not enough just to listen to his one single remark. You should first ask him, "Mr LEUNG, have you participated in the discussion in the Executive Council about the licence of Commercial Radio?" If he said yes, you should then ask him, "Have you ever suggested shortening the licence renewal term or making other proposals?" In this way, he had no choice but to elaborate or simply end the conversation. If he has to give such specific remarks, he will be in trouble.

Therefore, President, on this incident, members of the public are waiting for a clear answer. If a select committee is not set up to inquire into the matter, I do not see how the truth can be uncovered. Therefore, I support Mr LEE Cheuk-yan's motion. Thank you, President.

**MR ALAN LEONG** (in Cantonese): President, I speak on behalf of the Civic Party to express our support for the motion proposed by Mr LEE Cheuk-yan today on setting up a select committee under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance). We support the motion because Mr Henry TANG's allegations against Mr LEUNG Chun-ying, the Chief Executive-elect, at the Chief Executive Election forum are indeed very serious and are related to the core values highly regarded, cherished and always upheld by the people of Hong Kong.

The first allegation is, of course, as mentioned by Mr Henry TANG, that in the wake of the 1 July march arising from legislating on Article 23 of the Basic Law, Mr LEUNG Chun-ying proposed in the Executive Council the use of anti-riot squad and tear gas against protesters who intended to surround the Legislative Council Building during the Second Reading and Third Reading of the National Security (Legislative Provisions) Bill in this Council on 9 July, in a bid to stop the legislative process.

Please allow me to talk about this allegation first. Why do Hong Kong people attach such importance to this allegation and hope to understand the truth? It is because the 1 July march in 2003 marked the milestone of civic awakening in Hong Kong. In fact, I remember that after the 1 July march, I was invited to the National Day reception in the United States. When I entered the place, several "foreigners" approached me and shook hands with me. President, they then said, "Mr LEUNG," — I was not a Member then — "Congratulations". I asked them why. They congratulated me that so many people took to the streets on 1 July, yet not even one rubbish bin was overturned. They said that if the march happened in any one of the cities, big or small, in the United States, riots would definitely break out. When hundreds of thousands of people took to the streets out of their own free will, it was impossible to be so peaceful and rational; it was impossible to have such restrained behaviour.

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

Deputy President, do you think this is something we should be proud of? It turns out that there is another story. If Mr Henry TANG's allegation is true, Mr LEUNG Chun-ying, who would be the helmsman of Hong Kong in a few months' time, pointed out in the Executive Council that he could not tolerate such peaceful protest activities. Members of the public intended to hold candlelight vigil, a very moderate means of protest, during the Second Reading and Third Reading of the Bill on 9 July to express their dissatisfaction. Can we accept this man to govern Hong Kong in the same manner in the next five years? This is the focus of public concern. Why has this allegation attracted so much of our concern? It is because it is a challenge to the rights of free expression and peaceful demonstration we have all along enjoyed under the protection of the Basic Law and the relevant legislation of Hong Kong.

Deputy President, I have also looked up some materials. Mr James TIEN, a Member of the Executive Council at that time, said in an interview — I am going to quote his words — He said, "I am worried about bloodshed in Hong Kong"; he also said, "Things will go wrong at any time when the Legislative Council Building is surrounded or when hundreds of thousands of people gathered together." These were the remarks of a Member of the Executive Council in a media interview back then.

Then what had Mr LEUNG Chun-ying said at the time? When going over an article in the *Economic Times* on 27 June 2003, we found that Mr LEUNG Chun-ying said, "If Hong Kong people go after confrontational politics, they have to prepare to 'stand thirst if they choose to eat the salty fish'." What were his opinions after the 1 July march? It was reported in the *South China Morning Post* on 7 July that Mr LEUNG Chun-ying said, "To legislate on Article 23 of the Basic Law is a mission the Hong Kong SAR must accomplish for the country." This report should be published after the 1 July march. Deputy President, looking back at the reports before and after the march, that is, separate reports in the *Economic Times* on 27 June and the *South China Morning Post* on 7 July, do you think it is possible for Mr LEUNG Chun-ying had, as Henry TANG said, voiced his views at a Executive Council meeting that, "We might as well continue with the enactment of the legislation. If people surround the Legislative Council Building, we will use anti-riot squad and tear gas to combat them." This is a possible scenario, not just castles in the air. In this case, inquiry should be conducted as the accusation is not totally without objective facts.

In fact, after the first Chief Executive Election forum, the media pressed for interviews with the then Members of the Executive Council. No one of them confirmed that he did not make such remarks. Some said that they forgot, and some said that they did not hear such remarks at the scene, which may due to their absence from the meeting for a while and so they missed the remarks. If such objective information exists and no one can confirm he did not make such remarks, an inquiry is warranted because the core values of Hong Kong are at risk.

Deputy President, regarding another allegation, Mr Henry TANG said that during the discussion about the licence renewal of Commercial Radio in 2003, Mr LEUNG Chun-ying proposed in the Executive Council to issue a short-term licence to Commercial Radio. The motive behind this act is to threaten Commercial Radio, so that Albert CHENG and WONG Yuk-man would not dare to be so reckless, with one being "the Chief Executive" at the radio station in the morning, and the other being "the Chief Executive" in the evening. Deputy President, if these remarks are true, things are not getting right.

The people of Hong Kong have always cherished and attached importance to freedom of speech. If Mr LEUNG Chun-ying tried to keep a tight rein on Commercial Radio by renewing its licence for a short term, I do not believe Hong Kong people will approve and support such a person, they will not allow him to govern Hong Kong in the same manner in the five years from 2012 to 2017.

In view of the serious nature of these two allegations, Hong Kong people are now very worried that freedom of speech will be restricted; the freedoms and human rights enshrined under the Basic Law will be challenged; the news coverage and editorial independence of the media will be smashed; and the rule of Hong Kong will be threatened by the involvement of the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region. Under this situation and this objective environment, these two allegations are particularly serious in nature.

Deputy President, as Mr LEE Cheuk-yan has predicted just now, some colleagues of this Council will definitely argue that if the P&P Ordinance is invoked to inquire whether Mr LEUNG Chun-ying had made these two remarks, the principle of confidentiality of the Executive Council will be seriously

affected, resulting in preventing Members from speaking freely. In fact, this is absolutely an unnecessary worry.

However, Deputy President, before explaining why this is an unnecessary worry, I wish to first point out that LEUNG Chun-ying is the very first person to violate the principles of collective responsibility and confidentiality of the Executive Council. He did so before Henry TANG made the relevant remarks on the election debate forum.

Deputy President, you should remember that Mr LEUNG Chun-ying ..... Let us not talk about other incidents, we still remember clearly his comments on the policy of Home Ownership Scheme. His comments were directed against Chief Executive Donald TSANG. When he made such comments, he was still serving as the Convenor of the Unofficial Members of the Executive Council. In fact, he should first resign before making such comments. If he had resigned, I certainly could not accuse him. It is because after his resignation, he would not have to observe the principles of collective responsibility and confidentiality. However, he made comments while he was still serving in the Executive Council, I wonder if he has forgotten about this rule.

Let us return to the subject under discussion. Why do I think that a precedent will not be set, and we need not worry that Members of the Executive Council would be refrained from speaking freely in future?

Deputy President, a precedent only has influence on subsequent cases of a similar nature. What is this precedent now? It involves a Member of the Executive Council saying at a meeting that legislating on Article 23 of the Basic Law should proceed even at the cost of bloodshed in Central. He challenged the core values, as well as freedom of peaceful assembly and demonstration in Hong Kong. Subsequently, his other comment was tantamount to putting Commercial Radio in a straitjacket, challenging our freedom of expression. Hence, this precedent only has impact on subsequent cases involving great public interest to the same extent.

Just now, I have discussed these two core values. Hong Kong is now at a stage pending the assumption of office of a new Chief Executive. It turns out that the person who made such remarks is our Chief Executive-elect. Deputy President, setting a precedent and having a situation completely the same as this

one in the future is, in my view, quite hard to come by. Perhaps, winning a Mark Six lottery is much easier. In this case, how can LEE Cheuk-yan's motion be voted down on the grounds that this is a worrying precedent? I think this is over-anxious and uncalled for.

Of course, Deputy President, when you pay a visit to local districts, ride on the MTR or enjoy a dish of pork chop on rice in Café de Coral, you will definitely hear the views of kaifongs. Most of them believe that LEUNG Chun-ying had made such remarks. These two allegations made by Henry TANG against LEUNG Chun-ying are definitely true. If LEUNG Chun-ying really had not make such remarks and these allegations are untrue and irresponsible, an inquiry conducted by this Council by invoking the P&P Ordinance will give LEUNG Chun-ying, the Chief Executive-elect a golden opportunity to prove himself and do him justice. I do not see any reasons why he should not value this opportunity, it can do him justice and restore the confidence of the public.

When this Council votes on this motion later, I wonder whether Members opposing Mr LEE Cheuk-yan's motion will call the Chief Executive-elect, LEUNG Chun-ying and ask him if he supports this motion which will give him an opportunity to come to the Legislative Council to point out that these are untrue and totally groundless allegations; that will give him an opportunity to restore the confidence of the public and to do him justice.

I so submit.

**MR CHEUNG KWOK-CHE** (in Cantonese): Deputy President, the Chief Executive Election has just concluded. Mr LEUNG Chun-ying, after winning the election, visited districts frequently in the hope of salvaging his popularity before going to Beijing to accept the letter of appointment last week. In the two to three weeks leading to the election, Hong Kong was seriously rocked by political smears. Things appear to calm down now. However, in the course of this election campaign, integrity issues of top officials were exposed. And, the rule of law and freedom of Hong Kong were challenged in every way, undermining the core values people have taken great pains to build up. As Members are responsible for monitoring the Government, we must conduct a complete and thorough follow-up to these issues.

Deputy President, although this motion debate today only focuses on allegations against Chief Executive-elect LEUNG Chun-ying, I would like to ask Members to pay the same attention to the acceptance of benefits of Chief Executive Donald TSANG, as well as the follow-up investigation and prosecution taken by the Government concerning the unauthorized basement at 5A and 7 York Road, Kowloon Tong. I stress that these "three cheats" have to be investigated seriously, identify their wrong-doings and impose punishment on them, so that the public can learn about the true facts and the core values of Hong Kong can be safeguarded.

In 2003, just five-and-a-half years after Hong Kong's reunification with China, news concerning the licence renewal of Commercial Radio was spread. Back then, the incident caused a territory-wide sensation, giving rise to much discussion. Once the incident was exposed, the Government and LEUNG Chun-ying clarified in the first instance. They did so for one reason alone. The incident involved freedom of speech, a social value which had all along been highly treasured by Hong Kong people. Public broadcasting is an important channel for the social media to monitor the Government, which has also been highly regarded and cherished by the people of Hong Kong. No one in the governing position in Hong Kong dares to act against the will of the people. Five years or so after the reunification, people doubted whether the promise of "the way of life of Hong Kong people remaining unchanged for 50 years" had turned into empty talks. Being responsible for accomplishing the mission of "reunification of popular support", the SAR Government had to clarify and deny; it did not matter whether the rumour was true or not. When Mr Henry TANG brought up this incident again to accuse Mr LEUNG Chun-ying last month, the response in the community was absolutely different from the time when the incident happened nine years ago. Fifteen years after the reunification, people have been aware that their rights have been kept infringing upon, and the core values of Hong Kong have been eroded by consortia with vested interest. The Government has apparently given up the mission of "a high degree of autonomy". At the same time, the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region has blatantly interfered in elections at different levels, even interfering in the Chief Executive Election this time. Capitalist consortia have been acting more and more wilfully and recklessly. They have made endless demands for land resources; deceived ordinary people in the sale of properties by every possible trick; and driven away hardworking small traders, so as to rob the only fortune of the grassroots. Dissatisfaction of the

people with this incident nine years ago has been fuelled once again, with an intensity outdoing the last time. In fact, it reflects the strong dissatisfaction of the public with the current Government, as well as the political, land, housing, healthcare and welfare systems of Hong Kong.

By the same token, the allegation that Mr LEUNG Chun-ying had proposed in 2003 to use anti-riot squad and tear gas against protesters during the legislative process on Article 23 of the Basic Law has aroused strong reaction in society today, this is also a response against the infringement of the rights of Hong Kong people. In recent years, the protest zone of the Government Headquarters has been set farther and farther away, and the security of the Legislative Council Building has become increasing tightened. There are frequent incidents of reporters being beaten up by the police. I even worry that pepper spray will be used regularly by police officers on patrol. In the past, the role of the police is to facilitate the smooth progress of a rally, but now, the role of the police is to nip any protest movement in the bud. Deputy President, when I visited a welfare organization and talked to the social workers about their current role in advocating democracy, a social worker told me, "Ah Che, even if our organization allows us to lead young people to participate in social movements, given that we do not know when the police will arrest the participants, how can I guarantee their safety? How can we avoid being the 'dark shadow' in the eyes of the police? Therefore, the safest way is not to make any such arrangements." If things go on like this, it is very difficult for social workers to play the initiating role.

Deputy President, 15 years after the reunification, in my view, many core values which we have always taken pride in have vastly disappeared. The Independent Commission Against Corruption (ICAC) has recently arrested a former top government official and two tycoons to assist in its investigation. There is also the case concerning Mr Donald TSANG. I hope that the ICAC will not yield to pressure; and instead it will be determined to eradicate corruption and unlawful acts, so as to restore public confidence. If Hong Kong cannot even uphold the value of anti-corruption, I believe Hong Kong will be moving towards extinction.

Deputy President, I hope that Members of the pro-establishment camp will support the motion proposed by Mr LEE Cheuk-yan because conducting a thorough inquiry and imposing punishment on the lawbreakers can restore public

confidence in the Government, gain popular support and promote the sense of cohesion in society. If we let the incident stay blurred and rumours spread everywhere, it will be unfair to those concerned. If Chief Executive-elect LEUNG Chun-ying is innocent as he claimed during the election, an inquiry will help him boost his popularity and start a new page, which have everything to gain and nothing to lose.

Deputy President, with these words, I support the motion.

**MR TOMMY CHEUNG** (in Cantonese): Deputy President, in respect of this year's Chief Executive Election, a decision had already been made. However, as we all know, the election forum of the Chief Executive candidates has left behind a "Roshomon" which still remains an unraveled mystery. This mystery is whether anyone had proposed, in a meeting of the Executive Council in 2003, shortening the licence renewal term of Commercial Radio in an attempt to strangle the freedom of speech by administrative means; as well as whether anyone had said that Hong Kong would eventually need to deploy anti-riot squad and use tear gas against protesters after the 1 July march back then.

This is a very serious matter, it not only involves the question of integrity of the Chief Executive-elect and a former Chief Executive candidate; but also freedom of speech and freedom of expression, which are the core values of Hong Kong. Furthermore, it also involves the challenges against the long-established and proven rule of confidentiality of the highest policy-making organ of the Government, that is, the Executive Council. As the matter is sensitive in various aspects, we should exercise extra caution in handling it.

Certainly, the public wishes to know the truth of the matter. However, in today's motion, it is proposed that the Legislative Council should set up a select committee to invoke the "imperial sword", that is the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to require the Government to hand over the minutes of meetings and documents of the Executive Council, which have always been kept confidential, and to scrutinize in detail the proceedings of the Executive Council meetings. We really have to be very rational in handling this motion. We need to stop and think whether this move is suitable and appropriate.

According to the Basic Law, the Executive Council is "an organ for assisting the Chief Executive in policy-making". The objective of exercising confidentiality in the Executive Council is to ensure that the Executive Council Members can speak freely and honestly when putting forth various views and giving advice in order to assist the Chief Executive in policy-making. Earlier, the Executive Council had issued a statement which stated that the confidentiality of Executive Council proceedings is "an essential principle underscoring the policy-making and effective operation of the Hong Kong Special Administrative Region Government. It must be sternly upheld and respected, and should not be violated". As a matter of fact, if the Government is required to disclose the relevant records, it is tantamount to upsetting the entire system. As the issues discussed by the Executive Council are related to important policies of Hong Kong, if we use public interest as a justification to request for disclosure, this will set a precedent and disrupt the rule of confidentiality. Undoubtedly, the same justification will be used again, and this will be equivalent to "disabling" the Executive Council.

Furthermore, the minutes of the Executive Council are not in the form of verbatim recording. Even if the P&P Ordinance is invoked to obtain the relevant documents, they will not serve the purpose at all. By then, all we can do is to conduct an inquiry which is neither fish nor fowl, but the price we have to pay is to disrupt the rule of confidentiality of the Executive Council. This is absolutely an unwise move.

Besides, each time the Legislative Council decides to invoke the P&P Ordinance, it wishes to conduct a thorough inquiry into the incident. Thus, it often takes years to complete the inquiry. Take the three cases of invoking the P&P Ordinance within the current term as examples. It had taken two years and \$17.5 million for the Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man to complete its inquiry. It has been three years since the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products convened its first meeting on 27 October 2008. The Subcommittee is still in the stage of drafting its report.

Regarding the Select Committee to Study Mr LEUNG Chun-ying's Involvement as a Member of the Jury in the West Kowloon Reclamation Concept Plan Competition and Related Issues, the first meeting was held on 10 March, and

the Committee has to expedite its work in order to complete the investigation report in July this year. If a new select committee is to be set up now to invoke the P&P Ordinance to inquire into such a complicated matter, undoubtedly it will be impractical to expect that results can be achieved and truth can be exposed within such a short time. This is probably a political gesture more than anything else, wasting manpower and resources but to no avail.

Although it is considered inappropriate for the Legislative Council to invoke the P&P Ordinance to inquire into the matter, it does not mean that the truth of the matter should be allowed to be concealed indefinitely, like a stone dropped into the sea. In fact, the two persons involved should be most concerned about this. Before being elected, Mr LEUNG Chun-ying was asked whether he would disclose the relevant information of the Executive Council after being elected. Mr LEUNG indicated that he was not sure whether the Chief Executive had the power to disclose the information. However, he said that he had much motivation to do so, and he would certainly do so if so permitted.

With regard to this, Mr Henry TANG had already filed documents with the Independent Commission Against Corruption. Mr LEUNG Chun-ying had also indicated that he would consider lodging a complaint to the Registration and Electoral Office. Moreover, the Director of the Chief Executive's Office had said that he would pursue the matter. We believe that the organizations concerned will certainly act impartially, get to the bottom of the matter or take follow-up actions as appropriate. It is not necessary for the Legislative Council to intervene in the confidential deliberations of the Executive Council to the extent that it will affect the principle of confidentiality, a crucial factor contributing to the smooth operation of the Executive Council. I believe this is the solution in the best interest of the society.

With these remarks, Deputy President, I oppose the motion.

**MS EMILY LAU** (in Cantonese): Deputy President, I speak in support of Mr LEE Cheuk-yan's motion.

Mr Tommy CHEUNG has pointed out just now that not much time is left for the current term of the Legislative Council. This is a fact. Thus, if we

agree to commence the inquiry, we will have to hold meetings to discuss how the inquiry should be conducted. Even if we agree to carry out an inquiry, the remaining time of the term is insufficient for us to complete our task, and I believe the work concerned can be continued in October. The question is whether it is worthwhile to inquire into the matter in principle. Whether we have sufficient time to carry out the inquiry, and whether a fair and just inquiry can be carried out are issues to be considered carefully by the Legislative Council.

Mr LEE Cheuk-yan said just now that he wished to carry out the inquiry mainly because the issue of integrity was involved. We have been discussing continuously about the issue of integrity over the past two days. Nevertheless, different people have different interpretations. With regard to whether certain behaviours have problems of integrity, it can be said that each person offers a different view. This incident involves severe allegations against the Chief Executive-elect over certain matters. There are divergent views in the community. Some people believe in Henry TANG, while some remain doubtful of his remarks.

However, this incident involves the integrity of the Chief Executive. In respect of the two matters mentioned by Mr LEE just now, namely the suppression of freedom of speech and freedom of the press, as well as the enactment of legislation on Article 23 of the Basic Law in relation to the stipulation of national security, 700 000 to 800 000 people had indeed taken to the streets at that time to oppose the legislation, leading to the Liberal Party's decision of not supporting the legislation. If it were not due to such twists, TUNG Chee-hwa would force through the enactment of this legislation. Naturally, the public wish to know if anyone, in the face of such an acute situation and in the course of discussion back then, had really put forth the suggestion that Hong Kong would eventually need to use tear gas against protesters. This is because if this person is going to be the Chief Executive of the Special Administrative Region, his views on and attitudes to certain matters will certainly be of great concern to us.

Mr LEUNG has often adopted an honest and open attitude in answering questions concerning a wide range of subjects. However, in respect of this incident, he said that there was no such thing, but Henry TANG claimed that

LEUNG was telling lies. So everyone wishes to know what had actually happened because the above two incidents were considered by the community as important, and discussions on the incidents were controversial and had aroused much concern back then. I would like to thank Mr LEE Cheuk-yan for quoting the letter I sent to Henry TANG, the then Secretary. Some media had also reported on our correspondence back then. Although he had replied my letter, he had refrained from providing the details. He did not mention that the subject had been discussed at the meetings of the Executive Council; he only explained that the subject was discussed on other occasions. So what had actually been discussed at that time? Who had made comments and what had been said? In this connection, Secretary SO is really smart. He repeatedly told us the sequence of events. Do we really need you to tell us that? We need only to read the past documents to know the details. Thus, it is really not meaningful to participate in the debate of this Council in this manner.

The question we all wish to know is whether anyone had raised such controversial remarks. Probably you may think there is nothing unusual about it because anyone can certainly speak freely and honestly in closed meetings. Or as Secretary Ambrose LEE has said, it would facilitate honest expressions of views; or as Mr LEE Cheuk-yan has said just now, everyone could certainly speak freely and honestly under the rule of confidentiality. I can well understand the implementation of the rule of confidentiality. But the objective of this practice is not to facilitate certain people in "saying different things to different people". Indeed, some views or matters, such as matters involving commercial interests, substantial amounts of money, or personnel management, cannot and should not be discussed in public. I agree such matters should not be disclosed. In meetings of numerous Bills Committees, we have raised the question of whether it is possible to include the requirement of holding public meetings. Although only few government officials are willing to accept this requirement, some will accept making express provisions on this requirement. However, once the subject involves matters relating to substantial amounts of money, commercial secrets, or personnel management, the discussions should be conducted in closed meetings.

But if the discussions involve other public policies, why shouldn't they be disclosed? I really find this perplexing. Is it because someone is afraid that members of the public will be very angry once his remarks are disclosed to the public? Does it mean that the purpose of implementing the rule of confidentiality is to protect these people so that they can hold discussions in

closed meetings? This is particularly so as the majority of these people are without representativeness. They have been handpicked by the authorities only because they are wealthy, with powerful bulwark and privileged background. These are the reasons why they are favoured by the authorities, who allow them to become a member and grant them a certain right to speak. However, their remarks are not to be disclosed to the public. Why have these remarks on policies, discussions on whether we should enact legislation on Article 23 of the Basic Law, whether a person should be punished for expressing his views, how to strike a balance in enforcing the legislation, have become secretive views that cannot be disclosed? As a matter of fact, I have heard in numerous meetings of Bills Committees that if such regulations are included, members will not be able to speak freely or express their views honestly.

This is not the first time I put forward my queries on these issues. Why shouldn't these views be disclosed? In fact, when they step out of the meeting rooms after the meetings, they can still continue to make irresponsible remarks about the proceedings of the meetings in private. But these influential people, including members of the Executive Council, and members of many statutory committees and consultative committees, seldom come forward to explain their views. This is what infuriates the public most. And now the Administration has again given us this reason which fails to justify itself.

At the meeting on 8 February, Mr LEE Wing-tat raised a question related to the current inquiry into the "West Kowloon Incident". The question was about carrying out an inquiry into LEUNG Chun-ying, which was surprisingly accepted by you. Probably it was because the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region had not yet chopped off all your hands. Let us look at the reply given by the Administration with regard to the question raised by Mr LEE Wing-tat — not the meeting on 8 February, but the meeting on 15 February, when TSANG Tak-sing, the Secretary for Home Affairs replied, "On the premise of safeguarding public interest and complying with the confidentiality requirements", the Government had disclosed some information. What does this represent? It implies that under certain circumstances, while taking into account the requirement of confidentiality on the one hand, but observing the need to safeguard public interests on the other hand, to the extent of referring them as overriding public interests, the Government will eventually choose to disclose certain information.

Mr Tommy CHEUNG said just now that it would be useless to ask for the minutes of the Executive Council. However, Mr LEE Wing-tat reminded me — although I was not a member of the Select Committee to inquire into the incident of LEUNG Chin-man, he had taken part in the investigation and he told me that the Committee had been able to obtain the minutes of the Executive Council. Though certain important and sensitive information had been deleted from these documents or other minutes, reading through the entire document would ensure that you know what were discussed at that time. Besides, the Administration was very co-operative and was willing to submit documents discussed at that time. However, they would delete information they considered to be irrelevant to the hearings or information regarded as too sensitive. The Committee accepted this practice. Thus, there have been precedents. Mr Tommy CHEUNG opined that it would be useless to obtain these documents because only conclusions would be recorded at the most. I also believe that in order to avoid being caught out, government officials will tend to record less information in the minutes of meetings these days.

After I had been elected and returned to the Legislative Council back then, I took part in the Select Committee responsible for inquiring into matters related to the commencement of the operation of the Airport. At that time, Mrs Anson CHAN was the Chairman of the Steering Committee. The Select Committee had invoked the privileges to obtain all documents, and scrutinized paragraph by paragraph for deliberation. Anson CHAN had said that if there were any signs indicating the Airport was not ready, the Airport would not have commenced operation. We queried whether she had turned a blind eye because such signs could be found everywhere. Since preparation works for many parts of the Airport were not completed, why did they insist that the Airport should commence operation? The documents had shown that Mrs CHAN was very unyielding and uncompromising. Wordings such as "have a stiff word with him" were recorded. However, was this true? Of course, this was doubtful. Thus, it could be very embarrassing when every detail of a matter was recorded. So Government officials were shaken and they disapproved of allowing the Legislative Council to invoke the privileges with the purpose of obtaining documents, and had decided not to allow the Legislative Council to obtain documents at random any more. In addition, officers are told not to put down too many details, turning the documents into records without substance, which is undesirable. I believe the two Secretaries present here today do not agree to this

practice. A government should be subject to a set of rules and regulations, and discussions of all matters should be recorded.

Even if what Mr CHEUNG said is true in that instead of detailed records, only relevant conclusions can be found for some matters, rendering the records obtained not useful; if this motion is passed, we will be able to summon the persons involved in the case. They will be our living witnesses. Despite the fact that not many details had been recorded in the documents, we can summon every relevant person who has been mentioned just now, including SIN Chung-kai, the Vice Chairman of the Democratic Party. And they should also prepare the affidavit stating what was said at that time.

These are matters of great concern to us. Why did I write to Henry TANG about the issue of licence renewal of Commercial Radio? It was because many officials in the Government, including Mr TUNG Chee-hwa, were very angry at that time. They were of the view that the 1 July march back then was incited by two programme hosts of Commercial Radio (that is, "Tai Pan" and "Yuk-man") and the *Apple Daily*. Thus, if the *Apple Daily* has to apply for a licence, the paper would certainly run out of luck. It was believed that the paper would lose its licence. Back then, such rumours were flying. They were known to everyone in the industry. When we learnt about this, it was already not the first-hand information. It was against this background that I wrote that letter. According to information, someone was very angry and thought that Commercial Radio was "stirring up trouble". So obstacles would be posed with regard to its renewal of the licence. Not issuing a licence would be the most severe punishment, or at the most, a licence for three years only would be issued. That was the situation. We have to consider the background as well. Thus, when LEUNG Chun-ying was interviewed by Commercial Radio the other day, Stephen CHAN, one of the current top management of Commercial Radio, immediately told him that Commercial Radio would have to renew its licence soon, and asked him how he would handle this. We can see how sensitive the matter is.

As for legislating on Article 23 of the Basic Law, I believe I need not say too much. Many members of the public have expressed gratitude to the Liberal Party for their 10 votes had stopped TUNG Chee-hwa from forcing through the enactment of legislation on Article 23. You know how grave the situation was. Back then, "Brother Allen" had also said that if the Administration forced the

resumption of the Second Reading — I do not remember whether it was on 9 July, the Secretary may not know as he had not assumed the position back then — but at that time, "Brother Allen" said "bloodshed in Central" was inevitable. Back then, someone claimed that he would use chains to bind himself outside the Legislative Council Building. Someone also said that he would storm the Legislative Council Building. Probably the Secretary had also heard about this. It was such a grave situation. Thus, under those circumstances, the Government officials would definitely have discussed how to respond. These are the inside stories we need to know. We are reasonable people, and we will consider under what circumstances he had made the remarks, and whether these remarks were suitable and appropriate. He should also give an account in public, because the Chief Executive will have to handle these matters in the future; otherwise Stephen CHAN would not have asked him about the issue of licence renewal. He has to handle the licence renewal of Commercial Radio, the enactment of legislation on Article 23, as well as other legal and policy issues which may be controversial.

Many Members believe that Mr LEE Cheuk-yan will bode ill today. I am not referring to him personally, but the motion he moves today. In fact, each and every motion on the agenda of this meeting will not be passed. Nonetheless, like some lunatics, we have been debating for two days, making every effort to discuss some motions which will not be passed eventually. However, the matter will not come to an end here. I call upon those who know the truth to come forward. As "muckraking" is popular these days — though most of the "muckraking" takes place at the time of election, "muckraking" can still take place when there is no election. I ask them to produce all the information. The Administration absolutely has the responsibility to explain to the public who actually was the culprit for making us feel that freedom of the press, freedom of expression, freedom of demonstration and procession, as well as freedom in various aspects, and the core values of Hong Kong were being ravaged. Thus, I support the motion moved by Mr LEE Cheuk-yan.

(Mr LEUNG Kwok-hung rose and intended to speak)

**DEPUTY PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, it is not your turn yet. It is the turn of Mr LEUNG Yiu-chung to speak. You will be the next one.

**MR LEUNG YIU-CHUNG** (in Cantonese): Deputy President, Mr Tommy CHEUNG put forth two important points just now. The first one is that in moving today's motion, Mr LEE Cheuk-yan is more like staging a "political show". The second point is that at this time when he moves this motion, the remaining duration for this term is indeed very short, to the extent that it is basically difficult to do anything. And even if something can be done, it will be carried out perfunctorily. It is impossible to perform the task seriously and carefully.

First, I would like to talk about the first point, that is, is this a "political show"? Whether this motion is just a "political show" should be judged by members of the public. Do members of the public consider this a show; or is this an issue that should be handled and faced seriously? This should be judged by members of the public and not by us.

The second point, namely time is too short, Ms Emily LAU has just given a good explanation. As a matter of fact, if Members really wish to handle the matter, we can continue to pursue. I share the view of Ms Emily LAU. It is my belief that if the matter is important, the situation will be different. In other words, if Members consider that this matter is closely related to the public, and is even related to the election we have to face, I believe even if it is not handled this month, and the work can only be commenced next month, Members will still consider there is time for handling the matter. Thus, it hinges on the level of importance Members attach to the matter, and not the length of time. It hinges on whether Members consider the matter important and whether it should be handled. Actually I think this is the most important factor.

I certainly think this matter is important. That is why I support Mr LEE Cheuk-yan's motion. Why do I think it is important? There are mainly several reasons. First, Mr LEE Cheuk-yan has mentioned the matter of issuing licence to Commercial Radio, and it had been alleged that someone wanted to shorten the licence renewal term; otherwise it would not be possible to stop the daily dissemination of their views. This issue is my greatest concern, for we all know that this is related to the core value of Hong Kong — freedom of speech. If we do not attach importance to this core value, what other values do we attach importance to? At present, it is often heard in Hong Kong that we no longer have democracy, but we still have freedom. It is the view of many people. This is particularly so as it is stipulated in the Basic Law that freedom of speech

is very important. This is clearly specified in the Basic Law. Thus, it is unreasonable if we do not defend these principles. Besides, it will be impossible for us to be accountable to the public. The only thing in Hong Kong that makes us still feel proud of ourselves is the fact that we have freedom of speech. Therefore, whether Commercial Radio can have its licence renewed is, in fact, closely related to our freedom of speech. So I think this is a very important issue. We have to seek a clarification, and we must not act in a perfunctory manner. This is the first reason.

Second, in speaking of whether the Administration will deploy anti-riot squad or use tear gas against protesters, I think this act poses a greater threat to us. I believe among all political parties in the Council, almost none of them have not taken part in processions or demonstrations. We have had this experience before. Some even say this seems to have become a daily routine for them, or a way of life in Hong Kong. In any case, this has actually reflected that members of the public in Hong Kong are having many aspirations in society. They have mindfully raised their awareness, realizing that there is a need to express their own views. This is very important.

We are not only talking about processions and demonstrations today. Very often, members of the public will come forward to express their discontent. For instance, when the Government intends to clear squatters or wooden structures, the residents would explain that they are not unwilling to move, but owing to the inadequate arrangements of the Government, they have to remove suddenly and they have nowhere to go. As they may become homeless, the residents will certainly put up a fight against government staff responsible for the clearance operation. Of course, we may not encourage such behaviour. But when people are being cornered into a desperate state, very often they will risk their lives to protect their homes. If such a situation arises, how should we handle it? Should we handle it by resorting to violence, or should we provide more supporting facilities to resolve the problem? Unfortunately, the Government has not adopted a desirable way of diversion; instead, it has resorted to violent means, to which I oppose. The Government often acts in this manner, not only when we are safeguarding rights in relation to people's livelihood; but also when we are taking part in demonstrations and processions.

Many people say that I am gentler. I may be gentler, but I had the experience of confronting with the police before. At that time, while we were

staging a demonstration, mills barriers were suddenly set up to block members of the public and prevent us from advancing. However, they had not given us any explanations. We saw no pedestrians but policemen on the other side of the mills barriers, then why were we not allowed to go across? In any case, they did not allow us to go across. If you had witnessed this situation, even you would be very angry. So I took a risk and moved the mills barriers away to confront with the police. I had taken such action and I considered my action justified. The Administration had not warned us beforehand that we were not allowed to advance to that spot, but had suddenly used mills barriers to block us. We did not know what was going on, and we did not see any crowd or pedestrians. Nobody was in sight except the police. Then why were we not allowed to go across? In the past, such a scenario could mostly take place at the entrance of the Xinhua News Agency. Now it is not called the Xinhua News Agency. It has become "the Liaison Office of the Central People's Government in the HKSAR". The scene at that spot remains the same. We see very few pedestrians pass by the Liaison Office these days. With the exception of planters and mills barriers, nothing can be found there. This really infuriates people. The number of policemen there is more than that of protesters. And they do not allow you to go across. Are you convinced they should do that? Frankly speaking, I am not convinced. If there is such a scenario again, and I am not allowed to go across, I will certainly dash across if I have the opportunity to do so.

What is more pathetic is that when we indicate our wish to go across, we actually have to line up in a batch of 10 to go one by one, as if we were primary students leaving school after class. Why must we be treated like that? We are adults. Surely it does not mean that we do not know how to abide by rules? Surely it does not mean that we do not know how to control ourselves? Why must we go across one by one like ducks being herded as if we were under certain regulations? Isn't this ridiculous? Can we call this a procession or a demonstration? This is like lining up to leave school after class or lining up for assembly. I consider this a means to insult. As a matter of fact, the so-called conflicts between the police and the public are often induced by the unreasonable acts of the police. In order to defend their own unreasonable acts, they adopt violent means to control the crowd. For instance, pepper spray was sprayed at Mr LEE Cheuk-yan without reason at one time — I believe not only Mr LEE Cheuk-yan, Mr LEUNG Kwok-hung had also been sprayed. Many people had been treated like this and these acts were often unreasonable. The acts of the police induced conflicts, but to defend themselves, they used pepper spray on the

public. Such an act is really outrageous. Thus, today, I ask to investigate whether there is such a scenario. It may be even harsher in the future. They may deploy anti-riot squad. What they use will not be pepper spray but tear gas, which is worse.

This is the point I seek to clarify. We are very worried. Now that the person who tells lies is certain to assume office. After he has assumed power, it will not be surprising if he really acts like this next year. Of course, he will not make a prior announcement. He will not inform those who take part in public processions and demonstrations beforehand that "I will deploy anti-riot squad". But it will not be surprising if he suddenly deploys anti-riot squad. How are we going to stop him? Therefore, we need to seek clarification on this issue and carry out an inquiry into it.

The third reason is also very important. Recently many people tell us that "CY" will take office now — the current era is called the "Era of CY". But what era is the "Era of CY"? It turns out to be an era of telling lies. When we look back on the day of the debate competition — no, it was a forum; after the two of them — LEUNG Chun-ying and Henry TANG — had spoken, whom did most members of the public believe in? It was Henry TANG. Many people said that LEUNG Chun-ying was telling lies. If this is the case, I will be quite scared. Deputy President, why is that so? We often say that people throwing things in the Council will set a bad example for the next generation — this refers to one of the Members — but in the future, what if people say since our Chief Executive is telling lies, why can't we tell lies? If this happens when I am teaching, I will not know how to explain to my students. If they say, "The Chief Executive tells lies, so why can't I tell lies?" Will this be more pathetic? He is the Chief Executive. As the prominent Chief Executive is also telling lies, I really have no idea how to explain to the students.

Thus, it will be awful if this "Era of Lies" cannot be curbed. This is a very serious problem. I have to vindicate the future Chief Executive. It will be best if he has not told lies. In future, I will be able to tell the students, "You must not tell lies. Nobody tells lies." This will be better. If an inquiry is not carried out, our students will ask, "Even the Chief Executive tells lies, then why can't I tell lies?" What can I do about this? This is a problem. Thus, we must terminate this "Era of Lies". We cannot but terminate this.

Apart from the "Era of Lies", some people have also called it the "Era of Trickiness". What is so tricky about this? I remember when Henry TANG asked LEUNG Chun-ying whether he had said that he would deploy anti-riot squad and use tear gas against protesters, he answered, "No, I had not". Later he clarified by saying that "I had not said I would deploy anti-riot squad and use tear gas against peaceful protesters." Let us think about this. Henry TANG had referred to protesters of processions and demonstrations. LEUNG Chun-ying said, "I had not". But what was the subject of his remark when he insisted "I had not"? It was the peaceful protesters. What does this mean? I had asked many people, and they replied that this answer was tricky and cunning. When someone was discussing about a certain thing, he was referring to another thing. He was playing with words, wasn't he? When someone was talking about protesters of processions and demonstrations, he was referring to "peaceful" protesters of processions and demonstrations. He had added a word. Of course, how can anyone deploy anti-riot squad against peaceful protesters? It is certain that this will not happen. This is like can the police possibly arrest a law-abiding person without any reasons at all. It is not possible. How can he be so tricky? It is not our wish to see the emergence of the "Era of Trickiness". Many people in society have said that the person is as cunning as a "wolf". Now the description is "tricky". Isn't this more pitiful?

That is why I think this is a very serious problem. We have to ascertain whether he had referred to peaceful protesters or protesters of processions and demonstrations. These are two different concepts. If this is advancing a straw man argument, I do not wish this kind of idea will engulf the entire community. Currently officials often act like that — advancing a straw man argument frequently. If the Chief Executive is also like that in the future, officials will act in a even more flagrant and blatant manner. Since their supervising "boss" acts in the same way, why can't they act like this? This is advancing a straw man argument.

Thus, I think this is a very serious problem. Based on the several reasons cited above, no matter how tight our schedule is, if we really agree to go ahead, though we may not be able to finish the work even if we work overnight, I believe our colleagues of the next term will carry on with our work and continue with the inquiry — though there may be certain changes to our membership in the next term, I believe some Members will remain in the Council. Since this is the

case, I believe we can carry on with our inquiry. Our present work will not be wasted. Thus, I support this motion moved by Mr LEE Cheuk-yan.

**MR LEUNG KWOK-HUNG** (in Cantonese): Deputy President, it is certainly difficult for the historical truth to be completely disclosed. Nevertheless, there are records in every organization. This is particularly so with an important organization. Usually the records include shorthand drafts. By disclosing these records, the truth in history will certainly be revealed.

As a matter of fact, with regard to whether LEUNG Chun-ying had made those remarks, it will suffice if he issues a statement. He will be the Chief Executive in the future. It will suffice if he issues a statement. After he has made a statement, investigation can then be carried out if people are not sure whether to believe him or not. Of course, his answer will be ambiguous, right? First, when Henry TANG said, "You are deceiving people", his response is really ..... Mr LEUNG Yiu-chung did not know how to put it into words, so he said he was "picking holes in words", that is, advancing a straw man argument in his reply. The term "picking holes in words" means answering without giving real answers. Ambrose LEE is also very good at this.

Why do people "pick holes in words"? Only beggars "pick lice". Political beggars "pick holes in words" with political implications. Well, they are beggars. They pick lice when there are lice to pick. Let me cite an example. People alleged that the Chief Executive had issued four warning letters to him because he failed to abide by the principle of confidentiality of the Executive Council. At that time he said he had not received the letters. Then he disclosed through his campaign office that he had received one letter. Of course it was not four letters. But having received one letter means there was an act of issuing letters. He did not say there were no four letters, but only one letter; he just said he had not received four letters. This is a way of "picking holes in words" already.

Mr LEUNG Yiu-chung cited an example just now. He said he had not mentioned anything about deploying anti-riot squad or using tear gas against peaceful protesters. What about protesters? Did he make such a remark? He has to answer. Probably the actual fact was: I did not mention about anti-riot squad and tear gas; what I said was to deploy 4 000 members of the Liberation

Army. Well, he could have said so. Probably he had really made such a remark on that day. Is there any use of knowing what he would use? It is acceptable if he had said half of the truth. As a matter of fact, anyone who has studied logic knows that it is certainly not acceptable if it is not a completely true proposition. This is playing games, and I also know how to play this game.

When a historical truth may be favourable to a certain person, he has a desire to seek a clarification. I wonder if Members have read the book *LI Peng's Diary*. Mr CHAN Hak-kan, have you read the book? The book is *LI Peng's Diary*. It was published suddenly. Why was it so? It was because LI Peng felt that when the army was deployed to carry out the massacre, he was, in fact, a marionette; a puppet only. Thus, he kept a diary. He wrote diary every day starting from April, because he did not want the future generation to believe that he was the person who ordered the massacre of the people. He shifted all the guilt onto DENG Xiaoping. All disciplinary regulations had instantly been violated. Of course, he did that out of selfishness. However, his act was really related to public interest, because he had exposed how the army was deployed to kill on that day. Out of selfishness, LI Peng had revealed a part of an unsettled case in history.

It is reasonable to believe that LEUNG Chun-ying has heard the story of "The Exposure of the East Window Plot". What is this story about? Do you know? After QIN Gui and his wife had succeeded in plotting to murder YUE Fei, they thought the secret would not be known, so they secretly talked about this in front of a window in the eastern wing of their house. Eventually, their plot was exposed. Hasn't this kind of incident happened in history?

Now what have we done? In fact, we have done something Members of the Legislative Council have to do, and that is, we hold the Government accountable. On that day, irrespective of whether Mr LEUNG was in the capacity as the convener of the Executive Council, or the future Chief Executive, he was a part of the Government, and we have the authority to monitor him. Nevertheless, we do not have the authority to monitor him, because among the 10 duties, he only answers those questions he feels like answering, and refuses to answer those he does not feel like answering. So we are left with a legislation called the "imperial sword".

Since you have refused to answer, and since you said if you answered, you would have breached the long-standing principle, then let us help you out. We will use the "imperial sword" or the "magic mirror" to help you out. We do not mind using the privileges to save you from being embarrassed; in this way, you will not breach the principle of confidentiality under normal circumstances. Just come to the Council. Besides, those who come here to give evidence only do so because they want give the Legislative Council a chance to carry out the duty of monitoring them. In addition, they have this reasonable defence to safeguard them from any liability. Isn't this desirable? This is really a tailor-made outfit for you guys. It is flawless. So go ahead and put the outfit on.

The issue is very simple: whether LEUNG Chun-ying had made these remarks certainly involves public interest, right? If you suggest shortening the licence term of a certain organization to keep it quiet, or to specify which persons should keep their mouth shut — according to Article 27 of the Basic Law, we have freedom of speech and freedom of the press — since Commercial Radio is a media organization, is this act of yours a blatant violation against the constitutional, as well as a violation against Article 27 of the Basic Law? You act in the name of the Government to disable the exercise of rights under Article 27, why can't I probe into your act? Why don't you come forward and say something?

Besides, I have said time and again that politicians are involved with integrity. NIXON was doomed and had to step down not because he had done something wrong, but because he took part in the act of covering up. In the Watergate Incident, NIXON had recorded the conversation, and it had been proved that he had really ordered someone to destroy the evidence. Today, Mr LEUNG Chun-ying should certainly support our inquiry so as to prove he acts differently from NIXON. What have we done wrong in conducting the inquiry? Are we staging a political show? On the contrary, if we do not conduct the inquiry, we are staging a political show, because we had taken an oath to protect the interests of Hong Kong people and implement the Basic Law. In implementing the provision of the Basic Law to monitor the Government, we have to monitor the integrity of a person who will likely, or who will certainly become the Chief Executive, so what is wrong with that?

During the debate on the motion concerning relieving me of my duties just now, did Members mention about taking actions "automatically"? Must actions

be taken, then why such action is not implemented today? Recently, a writer who writes under the pen name of "jiubadao" (meaning nine knives) is very popular. He is a brilliant writer. You act in the name of "three knives". One knife is used to kill me, the other to kill the pan-democrats, and the last knife to kill other people, but certainly LEUNG Chun-ying will be spared as you support him. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has already clearly stated that they had "scalped" all the votes for LEUNG Chun-ying in the final stage. What else can be said? Is this not a political show?

The most ludicrous thing is, you are unfortunate if you are being cheated the first time, but if you are being cheated the second time, serve you right. At a time when LEUNG Chun-ying's manifesto was still not too bad, that is, in the first draft of his manifesto, LEUNG said that he would hand out "candies" and all kinds of sweeteners, like snake feasts, vegetarian feasts, moon cakes and rice dumplings, and so on, they said that they needed time to consider, and they did not render LEUNG their support. But when LEUNG retrieved all the giveaways and sweeteners, with nothing but empty talks, they supported him, claiming that it was for the sake of the grassroots. Isn't this the behaviour of "political prostitutes"? "Dainty red lips kissed by thousands of patrons". All that matters is money and power.

Deputy President, is this a political show? Isn't this a political show of "rendering repeated support"? What good does it bring to Hong Kong people by mobilizing so many people and resources to drive me out of the Council? Aren't there sayings about administering justice, or setting good examples for future generations? If this guy should be driven out of the Council, how about LEUNG Chun-ying? If he is a man without integrity and had really lied, if he had really plotted and advised the Government to adopt extreme and undisclosed means to suppress the media, to suppress the rights to know of Hong Kong people, to suppress the right to speak of the media, as well as to suppress the independence of the media, should he be put on the scale and subject to evaluation?

Deputy President, in respect of this issue, it is really an "evil-exposing mirror". The Chief Executive of the past must be protected. In the incident concerning the suspected corruption of Donald TSANG, while he has admitted the involvement of conflicts of interests, and there are sufficient grounds for

impeaching him, the DAB said we could not carry out further investigation into the incident. It said that there was insufficient evidence to move a motion to impeach the Chief Executive. So what does it want? What roles do members of DAB play in this Council? Do they join this Council to protect the Government? They love to say, "there is no minor incident when people's livelihood is concerned". If an administration deprives Hong Kong people of their basic rights, making them difficult to safeguard their livelihood, and some self-proclaimed politicians are suspected to be involved in these dealings, why can't we conduct a thorough inquiry? Why do we have to safeguard his authority? Are we only allowed to conduct an inquiry after the Chief Executive has been arrested by the Independent Commission Against Corruption and sentenced to imprisonment? Is your heart, your soul, your political ethics guided by the Court? Can't you be accountable to yourself? Must you listen to the words of a judge? Life will then be easy. A person only needs to follow the words of the Judge. That is why there are criminal sanctions but not criminal laws in China; monitoring is necessary.

Deputy President, "No one knows except heaven and earth, except you and me". This is a very famous saying. You and I plot together to take some secretive actions, these actions are against the law and will inflict harm on others. Yet, nobody knows except you and me. But we have to pay for what we have done. Buddy, the time of retribution has come. The present small-circle election has stirred up furore and turmoil, and the problem is exposed.

Deputy President, with regard to this issue, there is nothing worthy of defending. Just go ahead with the inquiry will suffice. An inquiry will be able to give a clear picture. So what is the problem? At present, the problem is someone has indicated that inquiry should not be conducted. What are their reasons?

Deputy President, our new-term Government has indicated clearly that its objective is to serve Hong Kong people. If it cannot prove its own integrity, how can we believe in it? With respect to this issue, Mr LEUNG Chun-ying had a previous record. Regarding the incident of Dr Robert CHUNG years ago, I remember that Mrs CHAN came forward and said that the incident should come to an end as everyone had expressed their views. But Mr LEUNG Chun-ying insisted on conducting a thorough investigation on the ground that Dr Robert CHUNG had insulted Chief Executive TUNG Chee-hwa. Consequently it was

found that someone had really interfered with academic freedom. On that day — I remember clearly — Mrs CHAN, the then Chief Secretary, said that it was an academic issue and stated that we should forget about the whole incident. Yet, he actually had come forward to speak. Look, now is the time of retribution. What we are discussing today involves such an issue.

What I want to say is that if our colleagues are not willing to invoke the Legislative Council (Powers and Privileges) Ordinance today to inquire into an issue of public concern on behalf of Hong Kong people, the Legislative Council is "lame". If you wish to protect your dignity, you should go ahead with the inquiry.

There is another thing — I have forgotten about it. My speaking time is almost up — someone said that we were McCARTHY. Is the person who said this stupid? Who was McCARTHY? McCARTHY was a Senator who abused his power to persecute civilians. Buddy, artists, including Charlie CHAPLIN, were arrested and asked whether they were communists. Three generations of their family members were investigated. Refusing to answer the questions was deemed an act of contempt. Can we do that now? Can we tell a civilian to come forward? We are asking the Chief Executive-elect to come forward. In the course of the Chief Executive Election, he was accused of telling lies and violating the most basic values of Hong Kong. I am sorry, go and check the dictionary first. McCARTHY was appointed personally by a rightist President of the United States to persecute people of the arts community and civilians. The person who said we were McCARTHY, please go and study history.

**MR CHAN HAK-KAN** (in Cantonese): Deputy President, today, Mr LEE Cheuk-yan proposed the establishment of a select committee under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to inquire into matters discussed in the Executive Council some years ago concerning the renewal of licence of Commercial Radio and the comment about using the anti-riot squad. We all know very well that Mr Henry TANG is the "muckraker"; he dropped the so-called "bombshell" in a debate involving the two Chief Executive candidates. It does not matter if Mr TANG's allegation is true or not, a very important principle under our judicial system is that the burden of proof is on the one making the allegation. Although Mr TANG made such an allegation at that time, no further substantial or concrete evidence was ever

produced subsequently, despite further enquiries made by many media organizations, friends and members of the community. I remember that at that time, some Executive Council Members, former government officials or Members who were present, including Prof Arthur LI and Ms Regina IP, they all said that they had no recollection of having heard of similar remarks from Mr LEUNG Chun-ying.

(THE PRESIDENT resumed the Chair)

President, during this Chief Executive Election, quite a lot of "black materials" have been disclosed and there are also a lot of mud-slinging. Therefore, if the Legislative Council rashly sets up a select committee upon hearing a few allegations, we will surely be extremely busy in the future. More importantly, should the Legislative Council intervene in the Chief Executive Election?

President, another problem is that if the Legislative Council invokes the powers under the P&P Ordinance today to carry out an investigation, the long-established system of confidentiality of the Executive Council will be compromised. As we all know, the aim of establishing the Executive Council is to form a think tank for the Chief Executive and propose strategies to him, as well as to give advice on administration. In order to let Executive Council Members speak their minds freely without being subject to outside pressure, the system of confidentiality has been put in place and this is our tradition. If we change this rule of the game rashly, the implications will be far-reaching. If a view voiced in a confidential meeting can be made public at any time, will there be any confidentiality? If Executive Council Members cannot speak their minds freely in internal discussions and cannot voice and consider views representing various stances, how can public policies in the best public interest be formulated? As regards whether the invocation of powers under the P&P Ordinance to order the disclosure of minutes of meetings of the Executive Council can really enable us to get to the truth of the matter, the person who is in the best position to answer this question is the President. However, since he has refused to give an answer, I have looked up some information. I found a press article written by the former Secretary, Mr Joseph WONG. He has the following views on whether the disclosure of minutes of meetings of the Executive Council can yield the truth, and I quote: "The minutes of meeting cannot prove beyond doubt which one of

the above is true because firstly, the minutes may not record that particular remark or indicate who made the remark; secondly, even if the minutes has recorded clearly who made the remark, the circumstances of the discussion at that time may not be fully recorded; thirdly, even if that remark cannot be found in the minutes, it does not necessarily mean that the person concerned did not say it. On the pretext of public interest, Mr Henry TANG tried to defend his act of leaking confidential information. In my view, the public interest involved in safeguarding the principle of confidentiality of the Executive Council is more important than the authenticity of the remarks alleged by Mr Henry TANG. From the above analysis, it can be concluded that disclosing the minutes of meetings of the Executive Council held eight years ago will not yield a truth that is acceptable to all parties." (End of quote)

President, I agree that the public's right to know is a kind of public interest. However, the rule of confidentiality of the Executive Council also involves very important public interest. If this principle of confidentiality is breached and the minutes of meetings are made public casually, the Executive Council Members would mistrust each other and will not speak the truth; they may not put forward non-mainstream opinions or views that are insightful and valuable. As such, the Executive Council can only hear a lop-side view in discussing policies, which will not be conducive to considering policies through various channels and from various perspectives by top government officials, and will even compromise the decision-making ability of the Government. This will not be in the public interest. Since the minutes of the Executive Council meeting is not a verbatim record, and the person who made the allegation cannot produce any proof, including witnesses or physical evidence; and on the contrary, there are witnesses to testify that the allegation are unfounded, hence I doubt very much whether the disclosure of the minutes of meetings of the Executive Council can really enable us to find the necessary information.

President, the Legislative Council is an organization operating on public funds and members of the public expect us to comment on policies and discuss matters that are beneficial to people's livelihood. The Legislative Council should not, upon hearing a few unfounded allegations made by a certain person, carry out an investigation on an ill-defined case that has no victim. The Legislative Council should by no means set such a precedent. I believe members of the public hope that the Legislative Council would be pragmatic; they do not wish to see the Legislative Council abuse the P&P Ordinance.

President, recently, when I visited local communities, many people asked me why Legislative Council Members were so keen in invoking the powers under the P&P Ordinance to conduct investigations. Since the P&P Ordinance is the "imperial sword" of the Legislative Council, how can it be used so casually? A member of the public advised Members to devote more time and efforts to discussing government policies, rather than being entangled in unnecessary political disputes. Moreover, he was also aware that setting up a select committee involved a lot of public money. President, the comment of this gentleman actually reflects the fact that some members of the public have great reservation about the Legislative Council Members' frequent invocation of the P&P Ordinance.

President, our powers are not inherent but conferred by the laws and subject to the monitoring of the public. The Legislative Council must exercise great prudence when invoking any power. Even though we have powers, it does not mean that they must be exercised. If these powers are exercised without justifications, it will be a war without a justified cause and will arouse suspicion of power abuse. Moreover, there are views in society that the motive of invoking the P&P Ordinance to investigate Mr LEUNG by the Legislative Council is to dent his popularity before he becomes the Chief Executive. Of course, we cannot prove the veracity of this view but I think that if there is such idea in society, it will not be conducive to the overall reputation of the Legislative Council. If Honourable colleagues want to supervise or monitor Mr LEUNG's Government, we should focus on whether he can in future honour the promises made during the election and in his election platform. I believe that this is more practical and beneficial to the public.

With these remarks, President, I oppose Mr LEE Cheuk-yan's motion.

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

**MR ALBERT CHAN** (in Cantonese): President, today's debate relates to a very important issue. Although it may give the public an impression that Mr LEE Cheuk-yan is just undertaking a routine task or just taking advantage of the situation by invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to summon Mr LEUNG Chun-ying to answer some important

questions, such questions are important in the sense that they involve issues relating to his integrity.

Let us look back at the previous governments. Owing to the incompetence of Mr TUNG Chee-hwa in administration, the principle of "one country, two systems" went bankrupt completely. His mistakes in governance led to the full and direct intervention of the Central Government and the direct intervention of Hong Kong communists in the ruling and governance of various sectors in Hong Kong. Moreover, the Central Government also sets up a Hong Kong-Macao team to directly take the lead in Hong Kong's affairs. As regards Donald TSANG, he has completely disrupted our clean Government. The two Chief Executives have gradually changed the attributes and even the cornerstones of governance that Hong Kong has taken pride in, these attributes and values will even disappear.

Integrity is a key factor of the Government's governance. Before LEUNG Chun-ying has assumed office, his integrity is at risk and on the verge of going bust. From his previous remarks, I can describe him as a "three-don'ts Chief Executive", that is, "don't admit, don't know and don't remember". This is already a well-known fact. When commenting on some controversial or sensitive issues, or on issues involving his personal interests, or on issues that may give rise to negative comments and implications, he always says: I don't know. Moreover, although he says that he does not know, everyone knows that he is lying. This is the most terrible point.

I remember that on several occasions, I have criticized Mr LEUNG Chun-ying for showing no expression on his face when he speaks. Of course, occasionally, when he is stung by some remarks, he will sweat, but his facial expression ..... for people like us who have strong temperaments, we will blush after saying a few words, then our face may go crimson with rage and the blood pressure will rise. Some friends sitting behind me said that they could see the palpitation of my blood vessels in the neck when I became agitated in debates. People with strong temperaments like us cannot conceal the feelings in our hearts. However, people like LEUNG Chun-ying can put on a skin-deep smile; very often a false smile or a foxy smile. And we do not know what his smile means. Of course, very often, it is a smile of embarrassment.

Looking back at the times when he said "I don't know", we can easily find some video clips from the Internet. On 10 February 2012, when he was asked

about the participating companies in the West Kowloon Reclamation Concept Plan Competition, he said he knew nothing, and he did not know which design he had voted. Later on 25 February 2012, he told reporters that he did not know which architectural firm named his company as a consultant. When being asked which colleagues were responsible, again he said he did not know. All in all, he answered all questions with the replies of "I don't know" or "I don't remember". For example, in reply to questions about the "Shanghai Boy", he said, "I don't remember"; the most outrageous point is that in reply to questions involving "Shanghai Boy" and LEW Mon-hung, he even denied that LEW Mon-hung was a member of his campaign office. Of course, regarding the wordings he used, what he has quoted may not be totally wrong, but very often, he tries to shirk responsibility, conceal the truth or mislead the public by saying "I don't remember", "I don't admit" and "I don't know".

There are many different ways for political figures to deal with questions. I clearly remember that in those years when I was in the Democratic Party, particularly during the period of time after the 4 June incident in 1989, the two important figures, one being SZETO Wah and the other Martin LEE, would reply differently to questions raised by reporters on different occasions. In listening to the replies of "Uncle Wah" when he was interviewed by reporters on several occasions, I knew clearly that he was lying. Subsequently, I asked "Uncle Wah" — of course, I understood that he lied for protecting some pro-democracy activists and the pro-democracy movement — I asked him, "'Uncle Wah', how can you lie in public for so many times about those questions?". "Uncle Wah" explained to me, "when you have to pursue a higher moral principle, you will have to do so." Later, I asked Martin, "'Uncle Wah' said so and so, but I seldom see you lie." Of course, both of them were the key persons in charge of the Hong Kong Alliance in Support of Patriotic Democratic Movements of China at that time. I asked Martin what he would do when being asked by reporters. Martin said he would either refuse to answer or make no comment, but he would not lie. These are two very different kinds of ethics. Recently, the memoirs of "Uncle Wah" were published and I found that he had close relationships with the Communist Party. Perhaps that is the nature of members of the Communist Party, they do not even blink in lying. LEUNG Chun-ying is very much like this. He and "Uncle Wah" are very alike in this regard because LEUNG Chun-ying — as we all know but of course, he will not admit, does not remember or does not know — is an underground member of the Communist Party or is someone closely related to the Communist Party.

Being a leader at the top echelon of the Government, integrity is of utmost importance. When the integrity of the leader goes bankrupt or calls into doubt, the Government's mandate and credibility will also be challenged, doubted, and even undermined. When the Government has problems with its credibility, its relationship with the public will definitely be distant, and it may even be at loggerheads with the public. This is because we cannot tell if the leader is telling the truth or not and what the directions of public policies are. The leader may say one thing today, another thing tomorrow and later say that he cannot remember. He may refuse to admit what he has said, and claims that he knows nothing about what has been done. How is the Government going to handle this situation? In particular, political figures will normally communicate and discuss in informal meetings, tea gatherings, dinner gatherings or closed-door meetings. Very often, a promise made is a solemn commitment and should be honoured.

However, for people like LEUNG Chun-ying, we should absolutely not believe in his promises, no matter they are made to an individual person or to a group of people. Take his political platform as an example, in particular, the part concerning housing issues. Originally, it is so and so, but at the crucial moment, in order to appease property developers, the content has changed completely. The commitment of building public housing or housing affordable to Hong Kong people can, all of a sudden, be completely denied.

In a formal public debate held during the Chief Executive Election, regarding the protest on 1 July 2003 in which 500 000 Hong Kong people participated, Henry TANG asked him if he had proposed mobilizing the People's Liberation Army to suppress the protesters by force, and if he had made comments on issue relating to Commercial Radio, he denied them all. If, purely from the legal perspective or the provision under the election legislation, his remarks may violate the Elections (Corrupt and Illegal Conduct) Ordinance, that is, he has made a false statement during the election. If the Independent Commission Against Corruption (ICAC) can handle the matter with fairness and impartiality and the Executive Council can provide the formal record ..... of course, there is no verbatim record of the meetings of the Executive Council and no record of who had said what, so no formal record can be provided. I am not sure if the Executive Council meetings were taped. President Richard NIXON had to step down due to the audio tapes. Back then, the meetings in the White House were taped. In the course of investigation, the Congress wanted to listen to the audio tapes. However, it turned out that part of the recording was deleted and it was claimed that it was deleted by some staff member by mistake.

Eventually, upon investigations, the Congress found out that the President had actually covered up the facts and this eventually led to his downfall.

Therefore, Mr LEE Cheuk-yan's proposal to carry out an investigation is not a sheer fabrication or entirely groundless, nor is he trying to take political advantage. This is just like the Watergate incident involving President NIXON back in those years. Whether or not LEUNG Chun-ying actually supported or opposed the mobilization of the People's Liberation Army is not important. One can support suppression by force, this is a personal opinion. If members of the Executive Council, government officials, political parties, and in particular, "Hong Kong communists" in Hong Kong want to use tanks and cannons to suppress the democratic movement and the human rights movement in Hong Kong, it is their personal preference, but telling lies publicly, distorting the facts, misleading and deceiving voters and Hong Kong people are shameless and despicable behaviours, that are unpardonable and unacceptable. Political leaders in Hong Kong, particularly the Chief Executive, are absolutely not allowed to behave like that, and members of the public also must not, cannot and should not condone this kind of behaviour.

Of course, political parties in Hong Kong are used to preaching one thing but doing another. They are very good at this. Be it the Democratic Alliance for the Betterment and Progress of Hong Kong or the Democratic Party, they are all the same. The Democratic Party is all the more well-known for distorting the facts. A very simple example is that their entering the Liaison Office of the Central People's Government in HKSAR (LOCPG) was described as a righteous move but LEUNG Chun-ying's entering the LOCPG was said to be bringing the Central authorities into the governance of Hong Kong. When the Democratic Party approached the LOCPG to discuss constitutional reform proposal, was it not inviting the Central authorities to interfere in Hong Kong's internal affairs? Does it mean that the Democratic Party's entering the LOCPG is a noble move but LEUNG Chun-ying's entering the LOCPG to thank for its support should be criticized as philistinism and a breach of political ethics?

Such double-standard actions taken by political parties are really contemptible. However, the political parties in Hong Kong are well-known for their duplicity, famous for telling blatant lies. They will not blink even when deceiving voters. The reason that this legislature can accommodate lying political parties is that this legislature is full of lying political parties. It is very lamentable that our political development has come to this pass. President

NIXON was once the top leader of such a large country, but even for a President, he had to step down for telling lies. Therefore, as LEUNG Chun-ying has not yet assumed office, he can be stripped of this post at any time because of lying.

In law, there is the likelihood that LEUNG Chun-ying would be prosecuted by the ICAC. However, I believe the ICAC surely would not prosecute him because the Commissioner is appointed by the Chief Executive, is he not? As for the so-called evidence, whether the personal allegations made by Henry TANG can be admissible as evidence and whether such evidence is strong enough for the Court to pass a verdict, it is up to the Judge to decide. A witness can already constitute a piece of evidence. Henry TANG was present at that time and he clearly stated that he had heard LEUNG Chun-ying say so. Therefore, LEUNG Chun-ying's denial of having said so already constitutes a false statement in election.

Earlier, Mr CHAN Hak-kan said that there was no evidence but he is wrong. A witness is a piece of evidence. Henry TANG is the evidence. As for that cheap politico called Ms Regina IP, she only said that she did not remember or she did not hear this but she never said that he surely had not said so. She just said that she had not heard it. She was probably day-dreaming about her bright career prospect in the Government. What she said has completely disregarded the facts.

Of course, there is no chance for this motion proposed by Mr LEE Cheuk-yan to be passed in this Chamber today. As I said just now, this Chamber is full of liars and "lying political parties" and they are so numerous that the situation is really deplorable. Lying political parties will naturally support a "lying Chief Executive", a "three-don'ts Chief Executive" and a "shameless Chief Executive".

Therefore, Hong Kong people can only fend for themselves; should we continue to be cheated by the Chief Executive and let him muddle through and deceive voters by dishonest means of don't admit, don't know and don't remember? With such governing approach of dishonesty, not admitting, not knowing and not remembering. I urge Hong Kong people to deal with this "three-don'ts" Chief Executive" by way of a "non co-operation movement".

Thank you, President.

**MR CHIM PUI-CHUNG** (in Cantonese): President, the Legislative Council Elections will take place this year and the society is also in a more unstable state in various areas, so it is understandable that recently, Members often wish to invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance). However, the contents and nature of each incident, each subject and each debate are fundamentally different. Therefore, I call on Honourable colleagues to be tolerant of different views and opinions. You may say that your views are good and that you are right. However, you should not criticize others and say that they are wrong, as though your representativeness is very high. This is because all Members have their own supporters and political stances, and they even have their own way of winning votes.

President, what I wish to say is that first of all, we have to understand that theoretically, the system in Hong Kong is still a so-called three-tier system, that is, there are checks and balances among the executive authorities, the legislature and the judiciary. They may counteract and interact with each other. We understand that the Executive Council has its own convention of distinguishing between official and unofficial Executive Council Members. In fact, before the reunification, everything was designed to serve the function of consultancy to the Governor. Of course, DENG Xiaoping, the former Chairman of our country, once said that Hong Kong would remain unchanged for 50 years after the reunification and the only change was the national flag. Therefore, at present, only the national flag has been changed and if there is anything that has remained unchanged, what can you do about it? Of course, we have to let history evolve gradually, and then make various changes.

As I said just now, before the reunification, the Executive Council in Hong Kong was a personal consultant to the Governor. After the reunification, naturally, the Executive Council became a consultant to the Chief Executive. Recently, the Chief Executive also made ..... of course, this is not recently but in the term of the last Government, the Chief Executive also made various changes, that is, in respect of the Official members in the Executive Council, apart from the three Secretaries of Departments, other Directors of Bureaux have the right to attend the meetings if the issues under discussion are relevant to them. Otherwise, they do not have the right to attend meetings. President, you have also been a member of the Executive Council, so you also know that. Therefore, there are two conventions: The first is the collective responsibility system and the second is the confidentiality system. Under these two conditions, and under the collective responsibility system, we can see that, in the past two or three years,

some ..... in fact, they observed neither collective responsibility nor confidentiality. He used the fine excuse of carrying out consultation, saying that I, being an individual representative, also have the right to express my views and I do not represent all members of the Executive Council. This person is Mr LEUNG Chun-ying. His capacity at that time was the convener of the Executive Council. Many people think that since he has become the next Chief Executive, we should not criticize him anymore. What I have said is not criticism. Rather, this is about leading Members and showing them the way, so that the Executive Council can make some fruitful changes.

President, let us come back to the Legislative Council. It is true that as Legislative Council Members, although we do not know the insider information on the Government's actual policies, our functions are recognized by members of the public because we are responsible for monitoring the operation of the Government and representing various parties in examining and approving the Government's budget. Also, of course, we can change the laws. However, I must also point out directly that the executive authorities have to table legislation before we are in a position to make changes easily. If Legislative Council Members want to make changes, this is not so easy to do so.

President, coming back to our question, that is, whether or not the Legislative Council can invoke the P&P Ordinance to override the executive authorities, Members have to understand this matter in depth. At the same time, we should also understand the administration of justice. The Judiciary makes judgments on all laws in Hong Kong during the judicial process. However, if the law is not clear, the Judges and the Judiciary do not have the power to give a leading view. It is necessary to make further amendments through the executive authorities, and then submit it to the Legislative Council for a formal amendment in accordance with the law. Being judicial officers, they have to make accurate judgments in accordance with the law. Of course, regarding accurate judgments, as I have said before, we have different representativeness, different positions, different time concept and different laws. Although it is said that we have no vested interests, we have legal interests. In that case, different verdicts or judgments will be made.

President, I will come back to the question. If we think that there are problems and inadequacies with the executive authorities, being one of the three powers of the Hong Kong Government, ultimately, it assumes a leading role. Although the three powers function together, it is after all a leader. Although

the three bodies are taking turns, the Central Government really hopes very much that the executive authorities can take the lead. What must be stated clearly is that although the executive authorities takes the lead, it does not mean that it can be absolutely dominating and manipulative. Although the executive authorities must take the lead, when there is any inadequacy involving the overall governance of Hong Kong, no matter in what area, we have the responsibility, obligation and power to take the lead in making amendments or supplements.

President, therefore, it is actually necessary for the SAR Government to study if this P&P Ordinance of the Legislative Council can really override all actions of the executive authorities when necessary. Of course, this involves two issues, public interest and the public's right to know. President, we understand that this issue is related to public interest. It cannot be denied that the right to know can override the existing law. This depends on our arguments because when the so-called democratic regions and countries seek progress, everything is based on the interests of the people and the interest of the country. The interest of the country is the right of the people to know. Their interest should override other laws. This is one way of putting it.

However, no matter what, if we want to keep the law intact, a region must comply with all kinds of rules. It is necessary for the executive authorities of the SAR Government to take a reasonable position and make reasonable amendments. That means telling everyone that the P&P Ordinance of the Legislative Council can override the Executive Council. At the same time, the public's right to know and public interest can override everything. Of course, you can say so, having disputes does not mean this is absolutely feasible.

Meanwhile, on this incident, President, today's motion is attributable to two areas, that is, the queries raised by the two Chief Executive candidates in a debate. Of course, these questions have arisen because both of them were Executive Council Members. In these circumstances, must they first conform to the collective responsibility system and confidentiality system? Regarding the confidentiality system, naturally, if one of them raised the question at a Executive Council meeting rather than during a conversation held in public or in private, would that be a breach of the codes of the Executive Council or their own rules? In these circumstances, is it necessary to come to the Legislative Council immediately? That is a question.

As Members would know, President, according to the Common Law in Hong Kong, the person who makes the allegation has to provide the evidence, which include his own private audio tapes. However, under the system of confidentiality of the Executive Council, whether audio tapes can be made public or admissible as evidence is controversial. However, is it necessary to bring this kind of controversy to the Legislative Council and should we rashly get involved in this kind of disputes before the specific details are clarified? Therefore, on this point, there are actually many factual issues and they do not concern us. We cannot determine who is telling the truth and which statements are true facts. Of course, one of them must have lied but this kind of lying also involves the issue of a better positioning of the Executive Council in the future.

Of course, I firmly believe that as a responsible Government, it will not be able to undertake the relevant work, probably because there are only some two months left; but no matter what, if the future Government wants to gain better recognition and trust from the public, as well as support from all parties, it must make adjustments and rectify the inadequacies identified. Of course if the legal aspect is involved, I also firmly believe that the Executive Council will leave the relevant legal procedures to the Legislative Council for follow-up.

At the same time, I have also talked about the collective responsibility system. If a decision has to be made, all Executive Council Members have to assume responsibilities. So long as the SAR Government has made a decision or a discussion has been held, no disputes should basically be raised outside the Executive Council, because as I said just now, the executive authorities have their operational secrets, which cannot be made known to the public and the Legislative Council at all times. Under these circumstances, personally, I hold that the Legislative Council should not get involved at this stage. At most, what we can say is that the executive authorities, especially the Executive Council and the future Chief Executive, should make adjustments under the leadership of the future Chief Executive, so that various sectors, especially the public and the Central Government, can cast a vote of confidence in the operation of the SAR Government.

We have also made other comments just now. In my view, if the dialogue and mutual accusations of the two Chief Executive candidates at that time have violated the electoral legislation, the Electoral Affairs Commission will naturally take appropriate action. It is not necessary for the Legislative Council to discuss

rashly and, in particular, to invoke the P&P Ordinance to summon the persons concerned to attend hearings held in the Legislative Council.

Under these circumstances, President, I have to stress again and I also understand, if the Legislative Council is to look into all affairs in Hong Kong, so many events happen each day in Hong Kong ..... for matters that are considered to be very important but with no adequate evidence, if we have to interfere, monitor and examine, I firmly believe that, though there will be 70 Members next year, even if there are 700 Members, and the Legislative Council Secretariat will increase manpower substantially, we still cannot cope with all the matters in society.

We can only adhere steadfastly to our position and I am not pouring cold water on other Members' conduct and proposals. In fact, we must debate and discuss. Since Members have different views, the Legislative Council has to conduct debate on certain matters, so that Members put forward their good ideas. No matter their views are right or wrong, all Members have to be fully accountable to their voters and it is hard to know if they can win support from voters. To put it bluntly, if you fail to win voters' support, no matter how moving your speech is, how astute and dashing you are, or how righteous you are, if you cannot get into the Council in the next term, there is actually nowhere for you to express your views. Of course, Members have to bear responsibilities on all matters on their own. I so submit.

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

(No Member indicated a wish to speak)

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I would like to thank Members for expressing their views on this question. As I said at the beginning of the motion debate, the renewal application of the sound broadcasting licence of Commercial Radio in 2003 was processed according to the law and established procedure as in the case of the renewal application of Metro Broadcast Corporation Limited. We consider it unnecessary for the Legislative Council to set up a select committee to investigate the approval process of individual renewal application.

I learnt that some discussions have taken place in society recently about the licence renewal of Commercial Radio nine years ago. Members spoken earlier have highlighted the importance of freedom of press, freedom of speech and freedom of expression. The Government always adopts a liberal and lenient regulatory approach to facilitate the provision of diversified programmes to the public and the establishment of a platform for expression of views by the industry, so that freedom of press and freedom of speech in Hong Kong can be fully realized. A typical example is that the Communications Authority (CA), formerly known as the Broadcasting Authority, will not pre-censor any broadcasting materials. If broadcasting organizations comply with the relevant laws and the provisions in the licences and code of practices, the editorial responsibility will be shouldered by the broadcasting institutes.

President, the broadcasting licence regime in Hong Kong has been quite mature. In processing renewal applications, the authorities need to base their consideration on laws and established procedures, which include the compliance with the provisions in laws, the terms and conditions of licences, the code of practice and the investment undertaking on the part the licencees, the expectation of the public on the performance of the licencees, the prevailing broadcasting policy and the latest technology development, and so on. For every renewal application, including the renewal application of Commercial Radio in 2003, the authorities will consider the relevant factors before coming to a cautious decision based on the principles of fairness, impartiality and public interests.

It has been nearly nine years since Commercial Radio licence renewal application was approved. Last year, the authorities conducted an interim review on the sound broadcasting services of Commercial Radio according to the terms and conditions of the licence, as it did in handling other licences. During the review, a comprehensive assessment had been conducted on the performance of the licensee in the first six years of the licensing period, 2004 to 2010, where amendment would be made to the relevant provisions in the licence of Commercial Radio according the assessment results for the remaining licensing period to enhance the operation of its sound broadcasting services.

President, the objective of the existing licensing and regulatory regime is to ensure that the broadcasting services provided by licensees are maintained at a standard matching the expectation of the public. The authorities are committed to respecting the independent operation and editorial independence of licensees,

and handling all licensing issues according to the rules and regulations and procedures of the regime.

President, in 2003, the authorities simply followed the time-honoured effective procedures in handling the licence renewal application of Commercial Radio. As I stated at the beginning of the debate, the Broadcasting Authority had not proposed any significant amendment to the terms and conditions of the licence at that time, and the proposal had been endorsed by the Chief Executive in Council. The licence of Commercial Radio was renewed in 2003. By now, it has been quite a long period, particularly in the rapidly changing broadcasting industry. It was a past incident and the circumstance has changed. Besides, the licence renewal of Commercial Radio is due for processing two years later, around 2014. Hence, we really do not see any need for the Legislative Council to set up a select committee to spend considerable time and public money to follow up the previous licence renewal arrangement.

President, in future, the Government will continue to do its level best to ensure that the precious frequency spectrum will be used effectively and the broadcasting policies will advance with the times. The newly established Communications Authority, as an independent statutory institute responsible for the regulation of the broadcasting industry, will continue to act in accordance with the relevant laws, terms and conditions of licences, as well as the code of practice on advertising standards and programme standards, to monitor the quality of broadcasting services.

With these remarks, President, I implore Members to oppose the motion. Thank you, President.

(Some noise was heard in the Chamber)

**PRESIDENT** (in Cantonese): Will the Secretariat assign some staff members to identify the source of the noise. I now suspend the meeting.

2.06 pm

Meeting suspended.

2.13 pm

Council then resumed.

**SECRETARY FOR SECURITY** (in Cantonese): President, I would like to thank Members for their views and proposals.

As I said in my opening speech, the Government has taken note of the concern of the public about legislating on Article 23 of the Basic Law. The SAR Government considers that safeguarding national security and completing the legislative work on Article 23 are the constitutional duties the SAR must undertake, and it is also the responsibility that should be shouldered by Hong Kong society as a whole. However, the Government has stated repeatedly that a timetable on commencing the legislative work on Article 23 is not available at the present stage. When the legislative work on Article 23 is to be taken forward in future, the SAR Government will definitely conduct extensive consultation on various sectors of society, so as to foster a broad consensus among the public. The legislative proposal drafted by the Government will certainly comply with the Basic Law and other international conventions in protecting the various rights and freedom of the people of Hong Kong.

Mr LEE Cheuk-yan proposes setting up a select committee to investigate the cases involving the renewal of the sound broadcasting licence of Commercial Radio in 2003 and the enactment of legislation on Article 23 of the Basic Law, but the two cases involve the confidentiality principle of the Executive Council. Regarding the confidentiality principle adopted by the Executive Council, I have explained in my opening speech that the effective operation of the Executive Council is built on the foundation of respecting the confidentiality system and the compliance with the confidentiality principle. The maintenance of this system is of great importance to the decision-making and operation of the SAR Government. Hence, the Government opposes any proposals that may disrupt the confidentiality system, and we adamantly oppose Mr LEE Cheuk-yan's motion on setting up a select committee.

Politically appointed officials are public officers; like civil servants, they are obliged to protect the confidential and sensitive information of the Government. Politically appointed officials are required to comply with the Official Secrets Ordinance and the Government Security Regulations, as well as

the offence of misconduct in public office and duty of confidentiality under the common law. Moreover, they must comply with the requirements under the Code for Officials under the Political Appointment System. Above all, it is stated unequivocally in the employment terms and conditions of each politically appointed official that they must continue to comply with the confidentiality provision even after they leave office.

Apart from this, Secretaries of Departments and Directors of Bureaux who are also Members of the Executive Council should, like non-official Members, take the Oath of Fidelity under section 18 of the Oaths and Declarations Ordinance (Cap. 11) upon appointment and honour the oath. I will now read out the content of the Oath of Fidelity to allow Members to have a clear understanding of the promise made by Members of the Executive Council.

The Oath of Fidelity, and I quote, "I will not, except with the authority of the Chief Executive, reveal the agenda or proceedings of the Executive Council, or any document communicated to me or any matter coming to my knowledge in my capacity as a Member of the Executive Council; that I will not seek to make or assist others to make any personal gain through the exercise of my official duties and I will be bound by and be collectively accountable for the decisions of the Executive Council." (End of quote)

Under the common law, all Members of the Executive Council are subject to the duty of confidentiality, the offence of misconduct in public office and the relevant provisions in the Official Secrets Ordinance. In the event of a Member of Executive Council violating the principle of confidentiality, the Chief Executive may, depending on the fact and the circumstances, take appropriate actions including issuing an advice or a warning, removing him or her from office, or taking legal actions.

I hope Members would understand that under the confidentiality system and the principle of collective responsibility, the Government will not disclose the minutes of meetings of the Executive Council in order to ensure the effective operation of the Executive Council.

President, the motion of Mr LEE Cheuk-yan today proposes setting up a select committee to investigate issues relating to the licence renewal of Commercial Radio and the National Security (Legislative Provisions) Bill in 2003. We implore Honourable Members to think this over, for the proposal will

not only flagrantly violate the confidentiality system of the Executive Council and challenge the future effective operation of the Executive Council, but will also take up a large amount of manpower, resources, time and public money. In the end, it may not be able to obtain any solid evidence to arrive at any concrete conclusion. I am afraid that all the efforts made will end up in futile.

President, to uphold the key principle under the confidentiality system and maintain the future effective operation of the Executive Council, the Government opposes the motion of Mr LEE Cheuk-yan and implore Honourable Members to vote against the motion.

President, I so submit.

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

**MR LEE CHEUK-YAN** (in Cantonese): President, we all know about the Watergate incident. Mr Albert CHAN has mentioned this earlier. In the Watergate incident, the President had to face impeachment because he lied. Finally, he decided to resign to avoid the impeachment. At that time, the Senate voted for an investigation on the President at a ratio of 77 to zero. Now, the "23-gate incident" has taken place in Hong Kong. More than one gate is involved. In the Watergate incident, only one gate was involved, yet in the present situation in Hong Kong, we are facing the "23-gate" and the "Commercial Radio gate". Coincidentally, the same person is involved in both cases. Had LEUNG Chun-ying lied? His integrity is called into question.

The Secretary for Secretary pointed out earlier that the oath taken by Members upon joining the Executive Council stated clearly that except with the consent of the Chief Executive, they would not disclose the content of discussion of the Executive Council to any person. He went on saying that appropriate actions, including issuing an advice or a warning, or removal from office, would be taken against the persons violating the confidentiality principle. I am waiting for the SAR Government to take appropriate actions. However, has the Government taken any actions? No. On that day, at the meeting of the Panel on Public Service, I asked the Director of the Office of the Chief Executive about

this issue, and he replied that he would not comment on individual case and then he read out the oath mentioned earlier. Why have the authorities not taken the appropriate actions? One of the possibilities is that the Government fears that once it takes action against Henry TANG for disclosing confidential information, it implies that Henry TANG is telling the truth. As such, the Government does not take any action. If the Government takes action against Henry TANG, does it mean that Henry TANG is telling the truth? Or, the Government does not take action because Henry TANG is ..... There are two possibilities that prevent the Government from taking action. First, Henry TANG's remark is not true; and the second possibility is that he had the consent of the Chief Executive. However, I do not know what the actual situation is. Why has the SAR Government not taken any actions? Just now, the Secretary said righteously that such practice will challenge the confidentiality system of the Executive Council, which is of utmost importance to the Executive Council. If that is the case, why the authorities have not taken any action? If the Secretary claimed that the confidentiality system was so important, he should have taken actions. I welcome the Secretary's action against such practice, and it is most desirable to initiate prosecution against Henry TANG. Members should take note of the point that Henry TANG also knows about the Oath. The fact that he is willing to take the risk of being prosecuted to make the incident known makes many people believe in him.

Yet, we are not discussing in this Council whom we should believe in. We want to investigate the incident to find out the truth and the liar. Integrity is very important and so is freedom, why this legislature ..... Many Members from the pro-establishment camp will surely press the "no" button later. You do not only choose to press the "no" button, you also refuse to speak on the motion. Why not voice your views? Why do you remain silent? Yesterday, you were so excited in criticizing "Longhair", but now you do not say a word. For you know that he is lying and you do not know what you should say. You understand that the public want their Chief Executive to be a man of integrity, so you dare not speak, fearing that you may offend the public. Yet you dare not speak in support of the public opinion to conduct an investigation, for you fear the Chief Executive-elect will be offended. In future, when you dance with the wolf, when you ask him for benefits or when you bargain with him, you may then tell him that you have saved his face by remaining silent and voted against the motion. Is it what you think?

President, when Mr CHAN Hak-kan spoke earlier against my motion, he just gave the same old reasons as given by others. The reason of "not being able to air one's views freely" has been repeated many times, and Mr CHAN Hak-kan cited that reason once again. Everyone mentions the reason of "not being able to air one's views freely", I wonder if Members of the Executive Council dare not speak out without the confidentiality system. Are they afraid that their views will run counter to public opinion? Or are they worry that they will feel shameful if their views are made public? President, we have no reason to allow Members of the Executive Council not to speak the truth behind closed door. It turns out that Members of the Executive Council will not speak the truth if their views are not kept confidential. Does that mean they are all telling untruth at open meetings? Is this the line of logic? Mr CHAN Hak-kan did say so earlier. It comes to light that Members are all telling untruths at open meetings and are only willing to tell the truths behind close doors. Is this the case?

On the other hand, Mr CHAN Hak-kan said that we made accusations on hearsay. He also said that the case was vague and there were no victims. How would there be no victims? All Hong Kong people are victims! If our Chief Executive is a liar, Hong Kong as a whole will suffer. If the Chief Executive did say that anti-riot squads should be deployed, tear gas should be used and the licence renewal of Commercial Radio should not be approved, Hong Kong people would all be victims. How could there be no victim?

Moreover, some people like to say that if Henry TANG puts forth the allegation, he should supply the evidence. Following this logic, when residents lodge complaints to the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) against the police or staff of the Housing Department — Members handling residents' complaints know that there are many complaints about them — will Members of the DAB tell them, "If you make these allegations, you should give evidence!" Will you tell the residents to do so? You will not.

We are not acting as the prosecutor at the court to initiate prosecution against a criminal offence. If it is a criminal case, the evidence should be supplied by the prosecutor. Yet we are talking about the integrity of the Chief Executive. Now, in front of our eyes, a witness is making an allegation. Should the Chief Executive be convicted when a witness make an allegation against him? Obviously not, but an investigation has to be conducted! I am

only seeking your agreement to conduct an investigation but not your agreement with the conclusion. Yet you disagree with the investigation and request the person making the allegation, Henry TANG, to provide the evidence. What kind of logic is this? Does it mean that the Legislative Council no longer needs to conduct any investigation? Does it mean that this Council will only request the Audit Commission to provide evidence on all the comments it made in future, for this Council will accept all the evidence provided by the Commission? Does it mean that whenever someone raises an issue, you will ask the person to supply the evidence, so that you may go off work? It is evident from this incident that you are adopting double standards, for you refuse to investigate the present case which is of great import but conduct a two-year long investigation on the incident involving KAM Nai-wai.

The Secretary for Security put forth another reason earlier, that is, the investigation of the incident would be a waste of public money. He asked Members to consider whether a large amount of public money should be spent on the investigation. Following this line of thought, may I ask why Members would be willing to spend a large amount of public money to investigate KAM Nai-wai's incident? May I ask Members how they weight the importance of these cases? The integrity of the Chief Executive is of utmost importance. In the Watergate incident, the President involved had to step down because of a lie. When the similar case happens in Hong Kong, the person involved is let off easily. Should this be the case? You in the pro-government camp are exactly doing that.

President, many said that the Legislative Council tends to invoke the Legislative Council (Powers and Privileges) Ordinance to investigate into various issues rather than concentrating on the scrutiny of policies. We have to conduct all kinds of investigations for many incidents have happened. As stated by Mr Albert CHAN earlier, power is not inherited but conferred. Yet, freedom and human rights are inherited. Our freedom and human rights are now under threat, so we must conduct an investigation and reveal the truth to the public. I hope Members will not take cover behind the confidentiality system, nor should they resort to the feeble excuse that "the imperial sword should not be used arbitrarily" to vote down our request for an investigation. Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr LEE Cheuk-yan be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Cheuk-yan rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan rose to claim a division. The division bell will ring for five minutes.

**MR PAUL CHAN** (in Cantonese): I have not switched on the speaker, I am not sure if you can hear me.

President, though the election of the Chief Executive has come to an end, I would like to declare that I am one of the nominators of Mr LEUNG Chun-ying. Moreover, President, I will stay in the Chamber later but will not cast any vote, just like last time when a motion on invoking the Legislative Council (Powers and Privileges) Ordinance to investigate the West Kowloon Development incident. Thank you, President.

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

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

Functional Constituencies:

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

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

Mr Paul CHAN did not cast any vote.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr WONG Kwok-kin voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 26 were present, four were in favour of the motion and 21 against it; while among the Members returned by geographical constituencies through direct elections, 23 were present, 14 were in favour of the motion and eight against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

**PRESIDENT** (in Cantonese): The fifth and sixth Members' motions. These are two motions with no legislative effect. I have accepted the recommendations of the House Committee: that is, the movers of motions each may speak, including reply, for up to 15 minutes; other Members each may speak for up to seven minutes. The mover of the fifth motion may have another five minutes to speak on the amendments; and the movers of amendments to his motion each may speak for up to 10 minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

**PRESIDENT** (in Cantonese): Fifth Member's motion: Perfecting Hong Kong's housing policy.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Mr WONG Kwok-kin to speak and move the motion.

## **PERFECTING HONG KONG'S HOUSING POLICY**

**MR WONG KWOK-KIN** (in Cantonese): President, the most popular topic in relation to people's livelihood discussed in this Council last year was housing. In the Council meetings alone, at least four Members' motions were proposed last year explicitly on the housing issue. It was because of the pressure exerted by public opinion and this Council that the Chief Executive was forced to undertake to resume the production of Home Ownership Scheme (HOS) flats and increase the production of other kinds of subsidized housing and likewise the supply of land. All of these are meant to solve the problem of housing faced by the people.

It is doubtful, however, that the resumption of the production of HOS flats and those measures introduced by the Government last year will be able to solve the problem of housing faced by people from different social classes. As a matter of fact, according to surveys conducted by some groups and also the findings made by us during our talks with the residents of the districts, the housing problem is still their greatest concern. This motion moved by me is in the same vein as the concern expressed by the Federation of Trade Unions (FTU)

about the housing problem and urges the Government to do more to perfect its housing policy so that people of all classes can lead a happy life, the conflicts in society can be resolved and there can be harmony instead.

President, once we are in the year 2012, property prices in Hong Kong seem to have fallen a bit. However, property prices are still very high. After the rebound in recent months, prices have returned to the peak of last year. I can give an actual example here. There is this young couple in our trade union and they want to get married. They want to buy a flat located in the New Territories with a size of about 40 sq m or some 400 sq ft. This is a typical first home which young couples would buy. According to information from the Rating and Valuation Department, had they decided to get married in 2009, they would only need about \$1.56 million to buy the flat; and had they married in 2010, the price for the same flat would have risen to \$1.92 million and if it were last year, that is, 2011, the price would have risen more and that flat would cost some \$2.3 million. If the couple want to wait, thinking that property prices would ease off and it would be cheaper to buy one this year, they will find that the opposite is true and they will have to pay \$100,000 more, that is, some \$2.4 million.

President, the housing problem faced by these young people and those who belong to the so-called sandwich class is most acute. These people also have the greatest discontent. This is because if these young people have to wait for the proposed My Home Purchase Plan (MHPP) flats or the new HOS flats, they will have to wait for five or six years. Should they wait for five or six years just because they want to draw lots for these subsidized housing schemes? By that time, they will have become old maids and bachelors. Moreover, the quotas for these subsidized housing schemes are limited and they may not find themselves lucky enough to be on the list of those who succeed in the draw. If they are to live with their parents in the public rental housing (PRH) units, they will be prevented from doing so because of the well-off tenants policy of the Housing Department.

Therefore, one of the highlights in my motion is to increase the housing support for these people from the sandwich class. First, with respect to these new subsidized housing schemes, be they the MHPP, the new HOS or sandwich-class housing, the Government should make it clear to the public that these schemes are long-term initiatives of the Government. The public should also be told that the Government does have enough resources for future housing

development and keeping the number of flats produced at a steady level and it will not stop the production of subsidized housing abruptly as in the case of 2003. Thus the people will feel assured and they will not flock to make applications for subsidized housing. In addition, the arrangements for premium payment and other relevant measures should be made better so that these new subsidized housing schemes will not produce any negative impact on the existing tenants and the private sector residential property market. On the other hand, mobility on the housing ladder can be speeded up and some adjustment can be made in addition to offering help to the sandwich class in housing. Meanwhile, the Government should conduct a review of the policy regarding young children living with their parents in PRH units. Encouragement should be given to facilitate the two generations in living together under the same roof and in sufficient space. This would enable family members to care for each other and it also meets the policy objective of ageing at home as set by the Government.

President, some people may say that young people do not necessarily have to buy a home if they want to get married and they should consider home ownership in the light of their means. They may also rent a place and get married. I agree with this idea for the simple truth that if property prices are unreasonable and if they are beyond people's affordability, any attempt to buy a home would be like carrying a time bomb. The bomb would explode the minute any great change emerges in the economy. But the problem now is that people find it very difficult also to rent a home. In the case of the example cited by me just now, if the young couple decides not to buy a home but to rent a flat instead, they will find to their dismay that the rises in rentals are likewise alarming. In the case of the favourite first home which is some 400 sq ft in size and situated in the New Territories, the rent was only \$5,500 in 2009. When you wanted to rent the same flat last year, the rent had risen to \$7,400 and the rent for this year is as much as \$8,000. Can we assert that the income of these wage earners can catch up with the rises in rents? During the past couple of years, the growth in real wage has ranged from 1.5% to 4.5% only and the growth is never large enough to catch up with the rise in rents. If the tenants do not want to accept the increased rents or if the landlords think the increase in rents is too small, they may evict the tenants at any time because the tenants are not protected by law. Just how can those who rent a flat have any sense of security to live a peaceful life?

The FTU therefore thinks that we should offer assistance to those people in the sandwich class who have rented flats. We suggest, for example, that the

Government should consider introducing sandwich-class PRH to enable those persons with incomes slightly above the PRH eligibility criteria but without the means to enter the private residential property market to apply for renting such units subject to certain conditions and time limits, so as to alleviate the pressure of rents on them. Also, consideration can also be given to, having regard for the relevant circumstances, offering tax concessions to persons from the sandwich class eligible for applying for subsidized housing. These tax concessions may include a tax allowance for renting private residential property. This proposal received almost unanimous support from the political parties during the debate on the budget, only that the Financial Secretary has not accepted it.

President, another social class that is the focus of my concern in the motion is certainly the grassroots. For more than a year past, the Government's housing policy has targeted mainly on the private market and subsidized housing, with very little support given to the grassroots and the vast number of PRH applicants which is close to 170 000, as well as people who need to live in "sub-divided units" and cubicles for various reasons. At most, the Government only plays the same old tune of a maximum waiting time of three years before these applicants are allocated PRH units and that there will be an annual production of 15 000 PRH units. We should know that as many as 30% of the households in Hong Kong live in PRH units and for the grassroots ..... President, so another social class which is the concern of my motion is the grassroots.

For more than a year past, the Government's housing policy has targeted mainly on the private sector and subsidized housing and with respect to the large number of grassroots, the close to 170 000 applicants waiting for allocation of PRH units and families which are forced to live in "sub-divided units" and cubicles for various reasons, the kind of support given by the Government is minimal. It must be noted that 30% of the families in Hong Kong live in PRH units and for the grassroots, their only hope is pinned on public housing. So matters like the waiting time and the allocation and turnover of PRH units are all very important. However, news regarding the wait for allocation of PRH units is mostly negative. In addition to the long waiting time, even if an applicant is allocated a unit, the location may not fit the needs of the applicant with respect to his work and daily life. At times, we may hear the Housing Authority say that it does not have the land for public housing construction or that the District Council concerned may oppose the building of public housing estates in the district, and so on. If the situation goes on, I am afraid this safety net of the last resort, that

is, public housing, will become broken and tattered. And if that happens, do these grass-roots families have to go back to the times of the 1950s and 1960s when there was no place for them under the sun?

President, the grassroots do not have the means to buy a flat, but they are also affected by the rises in property prices and rentals. For example, the rises in property prices have resulted in more and more people making applications for PRH units and the line of applicants waiting for their turns as well as the waiting time just get longer and longer. The result is more and more grass-roots families have to live in the old buildings, "sub-divided units" and even "caged homes" which are characterized by poor living conditions. The singletons among the grassroots are also adversely affected by the points system and they may have to wait for as long as eight to 10 years before they can be allocated a unit. About the rises in property prices and rents in the private sector, the result is that rents for "sub-divided units" and cubicles have soared. A room that measures just some dozen sq ft in area would cost a few thousand dollars or more. Some of the landlords even break the law and convert factory buildings into "sub-divided units". Living conditions in these places are deplorable and there are also problems in building safety.

Since last year the FTU has been urging the Government to increase the annual supply of PRH units to 30 000 units or more, so that the waiting time for PRH units can be shortened to two years. As a matter of fact, the most direct and effective way to reduce the waiting time is to increase supply. After doing some computations, we consider that the annual production of PRH units should be increased to 33 000 units or more. This can speed up the time taken before applicants are allocated a flat as well as increasing the flats allocated to singleton applicants. As for the problem of "sub-divided units", although the Government is inclined to legislating for the regulation of such units, there are as yet no actual figures and information concerning these "sub-divided units" in Hong Kong. This will make the regulation of these "sub-divided units" very difficult. I have therefore asked the Government to first conduct a large-scale inspection and a comprehensive survey of these "sub-divided units" before introducing legislation. For those units with safety problems, they should be dealt with immediately and the inspection exercise can also be used to gain a better understanding of the kind of support these people would need for the purpose of devising specific measures to help them.

As for the financial side, for those families which have been on the Waiting List for PRH units for a long time but have yet to be allocated a unit, the Government is duty-bound to give them some assistance. We therefore suggest that some financial assistance should be given to these grass-roots families on the Waiting List to help them pay the rents. This can serve to ease the pressure they feel in meeting the high rents.

President, there has been a lack of harmony in society in recent years and one of the reasons for this and for the existence of deep-rooted conflicts even is that people lack a sense of security. They feel that they cannot lead a stable life. They are most unhappy about the fact that they cannot make a home and they have to constantly worry about the housing problem. This is unacceptable to them. In recent years and as we can see from the kinds of discontent voiced by the people, the loudest being the discontent with real estate hegemony. This is actually a most natural thing and I hope that the SAR Government can pay attention to the fundamental causes of these deep-rooted conflicts in our society and administer the right remedies. The Government should make it a priority to act in the interest of the people.

I would also hope that irrespective of whether it is the Government of the current term or the next, it must sense the urgency of the people and accord priority to solving the housing problem. Only in this way can the people truly live a peaceful life and can there truly be stability and prosperity in society.

President, I will speak on the amendments proposed respectively by other Members later on. Thank you, President.

**PRESIDENT** (in Cantonese): Mr WONG, please move your motion.

**MR WONG KWOK-KIN** (in Cantonese): President, I now move my motion.

**Mr WONG Kwok-kin moved the following motion: (Translation)**

"That, although the Government already resumed the construction of Home Ownership Scheme ('HOS') flats and increased land supply last year in response to strong public demand, the supply and prices of residential

units in Hong Kong still continue to fluctuate, with the housing issue remaining people's greatest concern and grass-root people continuing to face various housing difficulties; in this connection, this Council urges the Government to ensure the healthy and stable development of the property market and formulate a long-term housing policy, so as to respond to the housing demand of various strata and perfect the housing ladder and mobility in Hong Kong; the relevant measures should include:

- (a) to increase the existing annual public rental housing ('PRH') production to 30 000 units or more for expediting the allocation of units to the existing 160 000-plus applicants on the Waiting List to two years, so as to meet grass-root people's demand for PRH;
- (b) to comprehensively review the Quota and Points System for non-elderly one-person applicants, and study the adoption of more effective measures to assist singletons with actual housing need;
- (c) to study the introduction of sandwich-class PRH to enable those households or persons with incomes slightly above the PRH eligibility criteria but without the ability to enter the private residential property market to apply for renting such units subject to certain conditions and time limits, so as to alleviate their rental pressure;
- (d) to review the allocation and eligibility criteria of PRH, with a view to facilitating and encouraging young family members to live with their elderly family members and to care for them;
- (e) to launch a large-scale territory-wide inspection of flat units sub-divided into separate units (commonly known as 'sub-divided units') and take enforcement actions against units contravening the Buildings Ordinance, so as to protect the safety of residents; at the same time, study the expeditious introduction of legislative control on 'sub-divided units', and conduct a general survey and a study on residents of 'sub-divided units', cubicles and cage homes, so as to facilitate the formulation of housing measures to assist these people;

- (f) to review the various eligibility criteria and conditions relating to the purchase and turnover of HOS flats, including the ratio of green forms to white forms in respect of new HOS flats in the future, the arrangements for premium payment for new and old HOS flats, and allowing eligible families to purchase HOS flats in the secondary market without having to pay the premium, so as to expedite the turnover of HOS flats and facilitate people's home acquisition through this channel;
- (g) to formulate long-term and sustainable development strategies for the supply of flats, site identification and financial commitment under various sandwich-class housing projects and HOS projects, so as to prevent such projects being suspended in the end due to policy changes or financial factors, etc.;
- (h) in times of short supply of public housing and subsidized housing, to provide rental assistance and tax concessions to needy applicants waiting for PRH allocation or sandwich-class people eligible for subsidized housing, so as to alleviate their housing burden amid exorbitant rents; and
- (i) to closely monitor the impact of the economic environment and external factors on the private residential property market and people's burden of home mortgages, and timely adjust the relevant policies to prevent drastic fluctuations in the private residential property market."

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

**PRESIDENT** (in Cantonese): Four Members will move amendments to this motion. This Council will now proceed to a joint debate on the motion and the four amendments.

I will first call upon Mr WONG Sing-chi to speak, to be followed by Ms Miriam LAU, Dr Raymond HO and Mr LEE Cheuk-yan respectively; but they may not move the amendments at this stage.

**MR WONG SING-CHI** (in Cantonese): President, may I speak later? Because I have lost the draft of my speech.

**MS MIRIAM LAU** (in Cantonese): President, the completion volume of residential units in Hong Kong has remained on the low side in the past five years and the number of completed units in each year has been less than 10 000 units on average. This when added to the large number of Mainland investors making inroads into the local property market and the super low interest rate environment has caused property prices and rentals in Hong Kong to hit all-time highs. In 2010, despite the introduction of government measures at end 2010 like the levying of additional stamp duty, reducing the percentage of mortgage loans against property prices, and so on, property prices have become robust again after a small adjustment. On Hong Kong Island, for example, the average property price per square foot in the first quarter this year is as high as \$8,400, which is 12% higher than the level in 1997. It can be seen that the pressure of housing is felt not just among the grassroots but also by the middle class as well. This is also one of the reasons why I propose the amendment today.

It is because of this great surge in property prices and rents that those from the marginal middle class who cannot afford private properties and who are also prevented from applying for PRH units, plus those university students who are not given a place in the dormitories, have all joined those who live in "sub-divided units". This is indeed a miserable situation when we have so many people who cannot find a home. The situation is also worrying.

I think the crux of the problem lies in the persistent and insufficient supply of land which has led to the problem in housing supply. This in turn accounts for the unreasonable and soaring prices of private properties. According to projections made in Hong Kong 2030: Planning Vision and Strategy, the population of Hong Kong will reach 8.9 million by 2039 and that is an increase of about 1.9 million people when compared with the present population. Therefore, there is an urgent need to undertake planning for the long-term needs in land for Hong Kong.

In my opinion, what the Government should do as the prime task is to make good use of land currently available. This includes increasing the

marginal supply of land by means of redevelopment, changing the land use or enhancing the efficiency of land use.

The Steering Committee on Land Supply for Housing chaired by the Financial Secretary is supposed to address the situation and help us find more land for housing development. It has published earlier a consultation paper entitled Enhancing Land Supply Strategy. However, it is unfortunate that the relevant consultation was only proposing, as a concept, those sources of land that can be developed. These include ideas like reclamation in the waters beyond the Victoria Harbour and developing the rock caverns, and so on. Put nicely, these are long-term solutions and when put bluntly, they are no more than empty talk. They do not come close enough to address the core of the problem, useless in the face of the many kinds of problems in housing needs which require urgent attention. What the Government should do now is to accord priority to the use of existing land resources, including improving the land planning for areas already developed, speed up the change of urban land uses, and so on. These measures will enhance the efficiency of land use in the urban areas in order that more land for development can be provided for the next 10 years, hence preventing the formation of a bottleneck in our economic development.

In view of the fact that many young middle-class people need to rent private properties and the high rentals have taken up a large portion of their income, we consider that the Government should help reduce their burden. An example is in the form of tax allowance for rentals which we in the Liberal Party have advocated on many occasions over the past two years. Many political parties also agree to this idea of ours. Mr WONG Kwok-kin also mentioned it earlier in moving the motion. This tax allowance should be one of the practicable options, but unfortunately the Government does not heed it. Our idea is to adopt the approach of cash reimbursement and give a tax allowance to those who do not own any property and have to rent private sector property. The allowance is valid for a period of five years and for a maximum amount of \$100,000 per year. In this way, the pressure of housing on these people can be eased.

As for those who have already purchased a home, the exorbitant property prices have caused an increase in the amount of people's home loans and extended the repayment period for such loans, so the Government should consider

extending the current entitlement period for deduction of home loan interest. It would be best if this can cover the entire repayment period.

In addition, factory buildings completed in the 1970s or before account for 41% of the total number of factory buildings in Hong Kong. On top of that, more than 70% of the factory buildings are located in the urban areas. Therefore, areas with old factory buildings are ideal for redevelopment into residential properties. The revitalization policy of the Government should have greater flexibility and be more specific. Old factory areas close to the city like San Po Kong, Tsuen Wan, Tai Wai, Aberdeen and Chai Wan can be considered. All the formalities and red tape should be cut to a minimum and the owners should be encouraged to make regrant premium payment and redevelop these old factory buildings into "no-frills" flats with limited floor area for those people in need of such flats or marginal middle-class people who are prospective first-time home buyers.

The role played by the Urban Renewal Authority should be enhanced and we can adopt the method of acquiring old residential buildings to redevelop the old factory buildings, hence increasing the supply of residential land in the urban areas. In addition, the Government should consider introducing flats with limited floor area to local first-time home buyers. This can not only provide more opportunities to first-time home buyers from the middle class but also serve the purpose of dividing the market up into segments for investors and users, hence reducing the chances of property prices rising further as a result of speculation.

In respect of public housing, with the raising of the income and asset limits for the applicants by the Housing Authority (HA) and decline in the actual housing production of the HA, the number of people on the Waiting List for PRH in the first quarter of 2012 is as many as 160 000. It represents a drastic increase of 95% compared with that 10 years ago. Of these applicants, those under the age of 30 account for 20% of the total.

The Housing Department (HD) should therefore launch a "three-track" policy and besides setting aside more land for the production of PRH units, it should also increase the circulation rate of the existing PRH tenants. This is because apart from producing 15 000 PRH units a year, recovering some of the PRH units is also an important source of supply. These recovered units take up

half of the number of PRH units allocated every year. Therefore, more efforts should be made to attract those well-off PRH tenants to move out and so increase the turnover of PRH units.

President, as the saying goes, the elderly should be given a sense of security, so we would agree with the suggestion made in the original motion, that is, the Government should facilitate and encourage young family members in living with their elderly family members and caring for them. Although the HD has a scheme called Harmonious Families Priority Scheme under which PRH applicants living with elderly family members are given priority in being allocated a PRH unit, the scheme will only shorten the waiting time by half a year. In our opinion, this is still not enough and the waiting time should be shortened by at least one year. In addition, as there is a considerable demand for elderly housing, the Government should not just build elderly housing units of a luxurious nature, but it should also set aside land for the building of elderly housing units which are affordable to elderly persons in general.

As for the housing needs of single persons who are not elderly persons, the Government should not adopt an across-the-board approach and prevent them from making applications, thinking that this group of people does not have any urgent housing needs. The points system should be reviewed so that these single persons who are not elderly persons do not have to wait until they have passed their prime before they are allocated a PRH unit.

As to the idea of reinstating rent control as found in the amendment moved by Mr LEE Cheuk-yan, it is the view of the Liberal Party that the idea is like turning the clock backwards and it also violates the principle of free market. The reason is that rent control was adopted previously largely because the number of PRH units available at that time was very small and so many people had to rent private properties. The situation back then cannot be compared with the present situation where more than 47% of the people are living in public housing or subsidized housing. So it is not possible for us to support this idea from Mr LEE Cheuk-yan.

President, I so submit.

**MR WONG SING-CHI** (in Cantonese): President, sorry, my voice is not very good today, but I will try my best to relay our message to Members.

President, I would like to make a declaration first. I am a member of the Housing Authority (HA), and so I, too, am duty-bound to perfect Hong Kong's housing policy. Hence, I hope to listen in the debate to the voices of different Members so that I can relay their views to the HA and strive for a reasonable housing policy.

President, to live in peace and work with contentment are the basic needs of every family. The Government is duty-bound to provide suitable accommodation for the people. Nonetheless, over the past several years, the SAR Government's oversight in housing supply has led to a surge year after year in property prices and rents in the private market and fuelled real estate hegemony, making it difficult for members of the public to acquire their homes and increasingly difficult to rent flats. Amid the uproar resulting from the failure of the middle class to purchase flats, the Government has eventually agreed to relaunch HOS construction, despite the delay for quite some time. Furthermore, the first batch of 2 500 HOS flats will not be completed until 2016-2017. Although the supply of an average of 3 600 flats per annum during the subsequent four years is far lower than the demand, it is somehow an improvement. In order to resolve the problem of inadequate supply to meet the demand for housing land, the Government must draw up a five-year rolling list of land reserve for public and private housing, with a view to ensuring a timely supply of land for public and private housing and making suitable adjustments to avoid an over-reliance on public or private housing, so that members of the public can choose to live in public or private housing according to their needs and affordability.

Years ago, the Democratic Party made the proposal of allowing eligible White Form households and persons to purchase HOS flats in the secondary market without having to pay premium, with a view to expediting the turnover of HOS flats and assisting needy families in acquiring their homes. I hope the Government can reconsider this proposal.

What is the situation of the grass-roots people? Their situation is very miserable. Even cramped caged homes with deplorable conditions and unsafe "sub-divided units" with many illegal structures are in short supply. The rent

per square foot of these places is even higher than that of luxury properties, with the rent of an ordinary suite of 100 sq ft or 200 sq ft ranging from \$3,000 to \$7,000 or \$8,000. Currently, more than 160 000 grass-roots people are waiting for PRH. In order to improve their living conditions, the Democratic Party has made some requests in addition to the views put forward just now by other Members in this motion debate. Actually, we have all along been campaigning for these requests in the hope that the Government can listen.

Firstly, additional PRH flats should be built to achieve PRH allocation within two years. As regards the production of flats, according to a rough estimate of an annual production of 25 000 to 30 000 new flats and the recovery of approximately 15 000 old PRH flats per annum for rent to new tenants, the annual PRH supply will be around 40 000 to 45 000 units. We propose that the annual flat production be increased in a gradual and progressive manner. Besides the problem of land supply, there is also the problem of PRH quality. The Democratic Party does not want to see the recurrence of the substandard piling works problem of the past during the hasty production of HOS flats. HOS flats must meet social needs in terms of both quality and quantity.

Secondly, the quota for singletons should be increased and the allocation of flats be expedited to exclude middle-aged singleton applicants from the points system, so that they may wait for PRH allocation like ordinary family applicants. According to our estimate, middle-aged applicants refer to people aged between 35 and 60. Should these people need to be allocated PRH flats because of unstable income even though they have reached the age of 30 or 40, we cannot see how they will be capable of entering the private market in the future. Hence, we hope the Government will consider the applications from these middle-aged singletons. Currently, nearly half of the applicants on the Waiting List are non-elderly singletons, and there is a very great demand for PRH flats. Nonetheless, under the quota and points system, the quota for singletons is set at 8% of the total number of PRH flats, subject to a ceiling of 2 000. In the past, only an average of 1 700 to 1 800 units per annum was allocated. Given the extremely short supply over the past many years, singletons are currently required to accumulate 140 points before they stand any chance of being allocated PRH flats. Assuming that an applicant opts to rent a private flat and submit an application at the age of 35, he will have to wait seven and a half years before he can accumulate 141 points. What a long period! Hence, the Democratic Party calls on the Government to review the quota and points system with a view to

increasing the quota to allow middle-aged one-person applicants to wait for PRH allocation like ordinary family applicants in the hope of assisting these middle-aged singletons, such that they can be allocated PRH flats within three years instead of seven or eight years.

Thirdly, President, the Democratic Party proposes that PRH allocation be reviewed to allow applicants to select districts in respect of PRH allocation, such as Hong Kong Island, Kowloon, New Territories East, New Territories West or the outlying islands. In this way, the people's needs can be met and the flat allocation also expedited. In recent years, the district offices of the Democratic Party, especially those in New Territories East, have received many complaints from the public. They said that although they had expressed the hope when applying for PRH flats of living near their parents or siblings to make it more convenient for them to look after each other and thus selected PRH flats in the New Territories, they had no idea that the New Territories district for PRH flats managed by the Housing Department (HD) covers New Territories East and New Territories West, which are far from each other. As people in New Territories East are very often allocated PRH flats in Tin Shui Wai, they have to leave the place where they used to live as well as other family members. It is thus simply impossible to achieve family-friendliness. In fact, we can see that there are currently only four district options for PRH flats, namely urban, extended urban, New Territories and Islands. The urban district covers Hong Kong Island and Kowloon, and so the problem is not serious. The extended urban and New Territories districts, however, cover an extensive area, and New Territories East and New Territories West are included. Due to the extensive coverage of the allocated district, applicants wishing to live near their workplaces or family members are very often allocated PRH flats in places they might not want to go. Alternatively, they might need to leave the place where they used to live or even quit their jobs. Although an enhanced Harmonious Families Priority Scheme was launched earlier by the HD, it can process only applications from families enjoying priorities and with elderly family members, but it cannot address the needs of ordinary families to live under one roof or nearby to meet their needs for mutual care. Therefore, the Democratic Party calls on the Government to conduct a review to truly achieve the goal of enhancing family harmony and achieving family inclusion.

In the past, President, the Group B PRH was provided by the Hong Kong Housing Society for households or persons with incomes slightly above the PRH

eligibility criteria but without the means to rent private flats to meet their housing needs. The Democratic Party proposes that the Government study the feasibility of relaunching the Group B PRH for applications by eligible families and persons with a view to providing them with stable accommodation to enable them to live and work happily. In this way, after accumulating wealth, they can acquire their own homes without having to worry about exorbitant rent or frequent home removals, thus disturbance to families can be avoided.

Lastly, President, regarding the issue of "sub-divided units", the Government has proposed a bill to amend the Buildings Ordinance with a view to enhancing departmental authority and increasing the effectiveness of law enforcement. The Democratic Party also calls on the Government to step up inspection, law enforcement and prosecution on the one hand, and provide adequate assistance on the other to assist the grassroots living in "sub-divided units" in expeditiously applying for PRH and provide reasonable rehousing for residents affected by clearance, so that they can have a decent dwelling place.

President, the Democratic Party will support the motion and all the amendments proposed by Members today, because we hope to draw on collective wisdom and provide different directions and views for consideration by the Government. I will also listen to the views of others in the HA and hope that the HA and its members will make joint efforts in fighting for a decent dwelling place for the people of Hong Kong.

Thank you.

**DR RAYMOND HO** (in Cantonese): President, influenced by external negative factors, including the lack of momentum in the United States economy, the lingering European debt crisis, the persistently weak Chinese economy because of such influences, the prospects of the local economy are still uncertain, even though the local property market remains robust. Since the Lunar New Year, the property market has continued to rise, with property prices and the transaction volume continuing to rise and the transaction prices of a number of major housing estates being pushed beyond record prices over the past two years. Even the relevant property market indices are reflecting this rising trend. The trend of the local property market seems to have become completely detached from the performance of the local economy.

Even the Financial Secretary, Mr John TSANG, wrote an article in his blog during the Easter holiday expressing concern that, with the persistently low interest rates and abundant liquidity, exuberance will re-surface in the local property market and stating the Government's serious concern about the risk of a property bubble. According to the Financial Secretary, property prices have since early 2009 seen a cumulative rise by 74%, which is 5% above the high level recorded in 1997. The public's burden of servicing home mortgages has also risen progressively from the low level of 32% in the fourth quarter of 2008 to 46% in the fourth quarter of 2011, which is close to the dangerous level of servicing mortgages with half of their income. Should the interest rate rise by 3%, the ratio of mortgage payments will climb to 59%, far above the long-term average of 50% between 1991 and 2010.

In fact, the continual rise in property prices in Hong Kong in recent years has simultaneously triggered a constant rise in the rents of residential property. Housing has become a problem that needs to be resolved urgently by many people and families in Hong Kong. Early last month, the Hong Kong Council of Social Service (HKCSS) published the latest Social Development Index. The Index, published biennially since 2000, covers 14 domains, such as the economy, law and order, and so on. The overall Social Development Index of 1991, considered as the base year, was set at 100, whereas the base index for the remaining categories was set at zero, for comparison of the trends of development in various years. The Index has risen from 170 in 2008 to 188 in 2010.

Although the Index points to strong economic development in Hong Kong with the economy index rising by 70%, the housing index has for the first time recorded a negative figure of -5 in 2010 from 86 in 2008. In other words, the housing conditions of Hong Kong people are worse than those in 1991. The HKCSS has attributed the fall mainly to the constant rise in the number of people on the Waiting List. The number of waitlisted applicants in 2010 was 145 000, 30% more than the number of applicants recorded in 2008. Meanwhile, the ratio of overall housing expenses to the total expenses of households has risen from 30.6% recorded in 2006 and 2008 to 32.8%. Furthermore, the medium rent of private residential properties has surged by 47% from \$5,100 in 2006 to \$7,500 in 2010. Even with minimum wage protection, the grass-roots people still find the exorbitant rent of private residential properties hard to bear.

In fact, not only the grass-roots people are plagued by housing problems, but more and more middle-class people are feeling the pressure of housing. As the rate of rise in property prices has far exceeded the rate of wage increase in recent years, many young professionals also face difficulty in housing and home ownership. The housing needs of lower-income people are addressed mainly through PRH. As for some lower-income middle-class people, even though their incomes are far above the eligibility criteria of PRH and HOS, they are still financially incapable of purchasing private properties. As a result, they have become the sandwich class with great helplessness. Quite a number of middle-class people have ridiculed themselves as the "poor middle class" with "middle-class income but grass-roots standard of living".

A property agency has recently used "the poor men's favourite" in promoting the sale of a flat with an asking price of \$4.1 million. Some netizens have expressed dismay at the fact that a person who is capable of dishing out more than \$1 million in cash as down payment and more than \$10,000 a month for monthly mortgage repayment is still considered to be "poor". Their response is absolutely understandable. Nonetheless, the publicity, to a certain extent, reflects the problem of high property prices in Hong Kong. According to the Census and Statistics Department, a middle-class household is defined as a household with a monthly income of \$10,000 to \$40,000. Even if some middle-class households are fortunate enough to have saved up to \$1 million for the down payment, they still have to make monthly mortgage payments of more than \$10,000, which will exert tremendous financial pressure on many of them. As for people who do not have sufficient means to purchase properties or are incapable of purchasing their first home, they will have to pay exorbitant rents. The rising property prices make it even harder for them to fulfil their wish of purchasing their first home.

To address the housing demand of people of different strata in Hong Kong, it is imperative for the authorities concerned to increase the production of PRH units to shorten the waiting time for people on the Waiting List. Despite the Government's commitment to maintaining the average PRH waiting time to approximately three years, there are quite a number of applicants who have waited for more than three years. Besides, I think that the Government should also propose measures on the housing problem faced by the sandwich class in order to alleviate the housing pressure on them. In fact, colleagues have

proposed a number of measures on perfecting the housing ladder and mobility in Hong Kong, and I support many of these measures.

In my opinion, however, the problem of property prices in Hong Kong is attributed to the imbalance between the supply and demand of land. To prevent the problem from further deteriorating, the Government must make preparations to cope with the future housing demand. According to the study report of Hong Kong 2030: Planning Vision and Strategy, the population of Hong Kong is estimated to reach 8.91 million and the number of households will increase by nearly 30% to 3.1 million households by 2033. According to the existing development density, Hong Kong will need to have an extra 45 sq km of land to cope with the population growth, aspirations for improvement in the conditions of living and economic development. Hence, it is imperative for the Government to increase land supply by various means to meet the housing demand in Hong Kong.

In my opinion, the immediate task for the Government is to expeditiously announce a land supply policy which is capable of meeting the housing demand in Hong Kong with a view to adjusting supply and demand in the local land market, so that the local residential property market can develop in a more stable condition. Meanwhile, the Government should also propose adjustments to the supply of PRH flats and relevant policies, as well as proposing concrete solutions to meet the housing demands of the sandwich class.

As for the issue of land supply, I have kept saying over the past decade or so that the Government should pay special attention to it. Nevertheless, it appears that the progress in this respect is still unsatisfactory. On housing today, difficulties are still encountered in land supply for making adjustments, whether for private residential flats or PRH units.

I so submit. Thank you, President.

**MR LEE CHEUK-YAN** (in Cantonese): When seeing a property advertisement calling a \$4 million-worth residential unit a "poor men's favourite", we really do not know whether to laugh or to cry. President, if a unit of 750 sq ft costing \$4.1 million is considered a "poor men's favourite", Hong Kong must have redefined the meaning of "the poor". Think about this: For a unit that costs

\$4.1 million, if a mortgage loan being 70% of the property price is taken out, the monthly repayment is around \$15,000. The median income now is around \$20,000 and a monthly repayment of \$15,000 is simply unaffordable to an ordinary family. How can it be called a "poor men's favourite"?

Now that there is this new definition, about 60% or 70% of the people in Hong Kong are poor people because they cannot afford it, whereas those poor people outside these 60% or 70% of the population consider it a magnanimous imperial favour for them to have the means to buy a \$4 million-worth unit. President, from this we can see how outrageous the situation has become in Hong Kong now.

Recently, a so-called the world's largest real estate statistics website published the results of a survey conducted among five major Asian cities, including Hong Kong, Singapore, Shanghai, Taipei and Beijing. Hong Kong is on the top of the list and ranked the first in terms of the housing misery index, because it takes 28 years for a person who must not eat or drink to buy a flat here.

President, how is it calculated? They factor the property prices into the wage levels of people in the various places to gauge the relationship between property prices and the people's income of a place, and by dividing the property price by the yearly household income, it is found that it takes a household 28 times of its yearly income, which means 28 years, to buy a residential unit. Hong Kong is ranked second to none in the world. President, this is the misery index.

However, let us think about this. Buying a flat is a misery and it is even more so to rent a flat, and it is a "super" misery to rent a "sub-divided unit". President, for people now living in rented "sub-divided units", they are often two-member or three-member families living in a unit of 80 sq ft at a rental ranging from \$2,000 to \$3,000, which rises by 30% or 40% after each rent increase.

There is a new phenomenon now and that is, people are moving, and they have to move all the time. Be it a person who lives in a rented "sub-divided unit" or a two-member family in the middle class or a person living alone in a rented apartment, they have to pay a higher rent year on year as their rent is increased every year. After the rent increase and when the rent outruns their

affordability, they can only move to districts where rental is cheaper and so, they are moving farther and farther away, and while they move farther and farther away, their transport fares will become more and more expensive.

Therefore, the Transport and Housing Bureau should take a really large share of the responsibility. High transport fares and high rentals are both within the purview of this Bureau and yet, it has done nothing to arrest the rise in both areas.

But today, we are here discussing property prices and rent. The situation now is really a great misery. Buying a flat is a misery, and renting a flat is a misery. The real estate hegemonists are indeed despicable, as they seek happiness while causing sufferings to all the people of Hong Kong. As real estate hegemony prevails, property developers know only to reap extortionate profits to the neglect of the life and death of the people.

You can say that this is a commercial world, and this is just the way it is. This is why the Labour Party has proposed two amendments today to counteract commodity logic. The first amendment proposes to reinstate rent control and the second proposes to supply land in a continuous and orderly manner, formulate medium-term land supply planning and make projections on the supply of different categories of buildings, so as to maintain a balanced supply and demand in the property market.

The Labour Party proposes these two amendments on one principle and that is, to defend the right to housing. When the right to housing is in conflict with the commodity logic, the prime concern of which is to reap extortionate profits, we stand on the side of the right to housing. This is the principle that we should stand by. It is because human beings must have a place to live in, and housing is a basic right. When the commodity logic has infringed on the right to housing, government intervention is necessary in order to counteract such logic.

Some people may say that I am again suggesting intervention in the market. To a certain extent, there is already intervention now. The development of PRH and HOS flats is intervention in the market. Why are PRH units developed? Because the Government knows to a certain extent that it is very important for people to have a secure dwelling place. A society in which the people do not have decent housing is definitely in turmoil; it is definitely not

harmonious and it is definitely in chaos. Therefore, the Government must build PRH units, and this is a benevolent policy.

So, Members must not say that there should not be intervention in the market in a capitalistic society, for it is useless to say so. There has to be intervention at the end of the day, because the living of the people and decent housing for the people are important logic of the market.

The amendments proposed by us today consist of two points: First, we should take the third path, so to speak. What is the third path? The first path is the existing PRH units and HOS flats, which are premised on government intervention; the second path is renting or buying residential units in the private sector. Now we wish to include an additional path, that is, the third path. What is it then? It operates in a way that half of the units are for sale and the other half for lease. You may call it public housing but it is in the private sector, and the units are meant for lease in a market more inclined to the middle class and requiring government intervention.

President, let me cite an example. In Vancouver, there are some buildings developed by the Government and upon completion, the lower floors will be sold at the market price, whereas the upper floors are purely for lease. This way, the rent can be stabilized. Why does the MTR Corporation Limited (MTRCL) not do the same? The MTRCL knows only to make money and reap extortionate profits. It has made a profit of \$12 billion from property development projects and yet, it is saying that the fares have to be increased. But we are not discussing the question of fare increase today. Can the MTRCL assume another role? That is, it can build residential units and put up some of the units for sale and some for lease. Certainly, those units for lease should be rented to people who are not on the PRH Waiting List, because if these units are rented to the waitlisted applicants, we might as well develop more PRH units instead. This is a way to stabilize supply and provide an additional choice to tenants.

The third path can also take the form of housing co-operatives, which can be found in many places, such as New York, Sweden, Norway and Canada. Is it possible not to commercialize all the housing units but turn them into decent housing for the people? Why can we not come up with more choices and increase supply by introducing different types of housing, such as youth hostels for the singletons to move in? Certainly, some non-governmental organizations

(NGOs) have already developed some hostels but their supply is scant. Why do we not increase their supply to address the problem of young people who find home purchase difficult and who are not eligible for public housing? Why do we not let them rent these hostels, so that they can have a place to live in? Consideration can be given to this third path.

With regard to the two other paths that I have just mentioned, PRH units are very important because tenants of "sub-divided units" are all waiting for allocation of PRH units, and if the waiting time can be shortened, it would mean a lot to them. The Secretary will repeat like a tape-recorder later that the average waiting time for housing allocation is 2.2 years. But that is the first allocation, and in some cases, the applicant is still not allocated a PRH unit after waiting for four to five years. So, this average time for housing allocation is meant to deceive people. We, therefore, think that the production of PRH units should be increased substantially. It is now said that 15 000 PRH units will be provided annually. In fact, the Government should provide 30 000 PRH units each year.

President, with respect to our proposal on rent control, we wish to achieve two objectives. First, the rent increase should be kept at not more than the market rate; and second, an owner can repossess his property only if it is for self-occupation purpose. We do not mean to take advantage of the small owners but we hope that owners will not increase the rent with the ulterior purpose of repossessing their property. Some owners actually do not wish to increase the rent as their purpose is to repossess their property and so, they will increase the rent substantially by 50% or 60%, in which case the tenants will definitely surrender their tenancy and the owners can hence repossess their property. This is actually unfair to the tenants. We propose to reinstate rent control in the hope that owners will charge rentals at the market rate and that they will not increase the rent every year in order to reap excessive profits or as an excuse for repossessing their property.

Lastly, President, I would like to say that the Labour Party opposes Ms Miriam LAU's proposal to introduce a tax allowance for rentals. We will vote against it. Why? Because if rentals are deductible and repayment of mortgage loan is deductible, we might as well increase the personal allowance to serve these purposes and there is no reason to distort the market by providing a tax allowance for rentals. If, after the provision of a tax allowance for rentals, the rent in the private sector surges further, that would actually be meaningless and

fail to address the problem at all. For this reason, we oppose Ms Miriam LAU's proposal to introduce a tax allowance for rentals.

Thank you, President.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I thank the Member for proposing this motion today which gives us the opportunity to exchange our views with Members on the issue of housing which is closely related to the people's livelihood.

The many views put forward by Members in the original motion and in the amendments cover not only the policies of the Transport and Housing Bureau but also the policy areas of many other bureaux. I will give a consolidated response to the motion later on, and I will convey the views of Members to the relevant Policy Bureaux. Now, let me first give a general account of the existing housing policies of the Government of the Hong Kong Special Administrative Region (SAR) and their implementation.

In respect of public rental housing (PRH), the SAR Government provides PRH through the Hong Kong Housing Authority (HA) to low-income families who cannot afford private rental accommodation, with the target of maintaining the average waiting time for general PRH Waiting List applicants at around three years. This has been a major policy of the Government and a long-term undertaking made by the Government to society.

We have in place a fair and consistent mechanism for calculating the average waiting time. In accordance with the established methodology, the waiting time refers to the time taken from registration on the Waiting List to the first flat offer, excluding any frozen period during the interim. The average waiting time of general applicants refers to the average time taken for PRH units to be allocated to general applicants who were rehoused in the past 12 months. This objective methodology is the basis for setting the target of maintaining the average waiting time of general waitlisted applicants at around three years.

According to the latest Public Housing Construction Programme of the HA, in the five-year period from 2011-2012, the production of PRH will be about 75 000 flats, or an average of about 15 000 per year.

To ensure a steady and adequate supply of land for PRH development to achieve our housing objectives, the relevant government departments will continuously and actively identify suitable sites for PRH development in different parts of the territory. In planning the production of PRH, the HA will optimize the development potential of the sites and increase public housing supply as far as possible through relaxing plot ratio and building height restrictions in line with the existing legislation and without compromising the quality of the environment. For example, after discussion between the Housing Department and the Planning Department, we have successfully relaxed the plot ratio and building height restrictions for PRH projects in Fo Tan and Hung Shui Kui, and an additional 4 200-odd units will hence be provided in the two projects. In future public housing development projects, we will continue to work towards the objective of optimizing the use of land resources and develop PRH on the principles of maximizing cost-effectiveness and achieving sustainable development.

In launching the Public Housing Construction Programme, the HA will duly consult the relevant District Councils (DCs) and the locals to listen to their views on the Public Housing Construction Programme, with a view to ensuring that the relevant projects can better respond to the needs of the residents in the districts.

In respect of non-elderly one-person PRH applicants, the Quota and Points System (QPS) was introduced by the HA in 2005 to rationalize and re-prioritize the allocation of PRH to non-elderly one-person applicants, so that the HA can channel resources to helping applicants with the most pressing housing needs in a more focused manner.

At present, the overall number of PRH units for allocation to waitlisted applicants can only be maintained at a certain number. In 2010-2011, together with non-elderly one-person applicants under the QPS being rehoused through the Express Flat Allocation Scheme, non-elderly one-person applicants rehoused under QPS accounted for 15% of the actual allocations to waitlisted applicants. The QPS has had a positive impact on the rational allocation of PRH units in favour of more needy applicants. A further increase in the quota for non-elderly one-person applicants or even abolition of this system will reduce the number of PRH units for allocation to other applicants on the Waiting List (including household and elderly applicants).

In respect of subsidized housing, the Chief Executive put forward the policy on the resumption of the Home Ownership Scheme (HOS) in the Policy Address last year in response to the aspirations of low- and middle-income families to buy their own homes under the current market condition. The new HOS scheme will target at families with a monthly household income under \$30,000, mainly first-time home buyers. The prices of the flats under the new HOS will also be set with reference to the mortgage repayment ability of eligible households. With the sites identified at this stage, the plan is to provide more than 17 000 flats over four years from 2016-2017 onwards, and the first batch of new HOS flats is expected to be ready for pre-sale in 2014 or 2015.

The HA is proactively carrying out the relevant preparatory work of the new HOS, including the preliminary planning and investigation work. Sites in Sha Tin, Tsuen Wan, Kwai Tsing and Yuen Long have been initially identified for the first batch of housing estates to be built in six development projects under the new HOS, and consultation with respective DCs is in progress. The HA will keep a close watch on the demand for new HOS flats in the market and maintain close liaison with various departments to identify suitable sites for the development of new HOS flats. The target is to provide an average of about 5 000 new HOS flats per year, but the actual number of flats to be developed and made available for sale will depend on the prevailing demand in the market.

I understand that some Members of the Legislative Council and locals of districts have different views on the location of the new HOS projects, the size of their sites, as well as transport and community support facilities. We are more than pleased to listen to the views of various stakeholders. We will strike a balance among various aspects and respond to the aspirations of the community by all means. However, I must point out that the new HOS must forge ahead.

Other than the new HOS, the Chief Executive announced in the 2010 Policy Address the introduction of My Home Purchase Plan (MHPP) in collaboration with the Hong Kong Housing Society (HS). The MHPP, which is premised on the concept of "rent-and-buy", is another option on the housing ladder. Its objective is to help households which have the long-term ability to purchase a flat but do not have enough savings for the down payment to rent a MHPP flat first at the then prevailing market rental and save up for their future home purchase plan. The Chief Executive announced in last year's Policy Address the enhancement measures for the MHPP to ensure that participants

would not see their home ownership plan disrupted when property prices soar and to enable them to set more specific saving targets.

The Government has all along adopted a comprehensive strategy in housing, with the objective of taking care of the public in a holistic manner, having regard to their different levels of affordability and housing needs. On the types of housing, the residential flats under PRH, HOS and HOS Secondary Market, the new HOS, MHPP and in the private sector have provided diversified choices for the public, and some projects under the new Public Housing Construction Programme are subject to vetting and approval by the Executive Council. In respect of the quantities, we will closely monitor the changes in the demand and supply of different types of housing in the market and make suitable adjustments. Moreover, we have introduced a package of measures, such as measures for combating speculative activities, ensuring transparency in the market and developing land, which have not only addressed the needs in the short term but also mapped out plans in the medium-to-long term. These are measures for sustainable development.

President, the various types of housing in the public and private sectors are meant to serve different targets. Whether it be PRH, HOS, MHPP or private residential flats, they all have their own position; they do not overlap with each other; nor are they in conflict with each other. The provision of diversified choices will only make the entire housing ladder more effective and more comprehensive. In the remaining term, this Government will continue to provide PRH through the HA to low-income families in need. We will continue to maintain the stable and healthy development of the private residential property market. I believe a comprehensive and diversified housing policy is sustainable and welcomed by the public.

The Government has been monitoring developments in the private residential property market closely and remained vigilant on the risks of a property bubble. Since 2010, the Government has responded to the situation through the introduction of long-, medium- and short-term measures in four areas, including increasing land supply, combating speculative activities, enhancing the transparency of property transactions, and preventing excessive expansion in mortgage lending, with a view to ensuring the healthy and stable development of the property market.

The SAR Government has all along attached great importance to meeting the needs of the low-income people, including their housing needs, and we have been committed to providing them with safety nets from different angles and in different policy areas. Low-income families and people who cannot afford private rental accommodation can apply for PRH; people with pressing housing needs can consider applying for compassionate rehousing through recommendations by the Social Welfare Department or early allocation of PRH units through the Express Flat Allocation Scheme; the Comprehensive Social Security Assistance Scheme provides a safety net for people who cannot support themselves financially to meet their basic needs, including the grant of a rent allowance for them to meet the rentals. These social security nets have practically provided many low-income families and people in need with basic protection in housing and in their living.

People who are outside the social security nets can obtain assistance through the Community Care Fund (CCF). Since the inception of the CCF, over 10 assistance programmes have been launched to provide support to people caught in financial difficulties, particularly those who fall outside the safety nets, or those within the nets but are not taken care of because of special circumstances.

Concerning residential units sub-divided into separate units (commonly known as "sub-divided units"), the Government, like members of the community, is very concerned about this issue. To address possible building safety problems with "sub-divided units", the Buildings Department (BD) has taken a series of measures to protect the safety of the public and residents under a multi-pronged approach.

The BD has since April 2011 launched a large-scale operation with the target of inspecting "sub-divided units" in 150 buildings per year, taking enforcement actions against irregularities of the building works involved. The BD has further enhanced the operation since April this year by increasing the number of target buildings to be inspected to 200 buildings per year. Taking into account the potential risks that may be posed by adjacent hawker stalls to buildings, the BD will redeploy manpower in 2012 to carry out a one-off special operation to inspect "sub-divided units" in old buildings situated in the vicinity of hawker stalls. Together with the BD's plan to inspect "sub-divided units" in 30

industrial buildings in 2012, we expect that the number of target buildings to be inspected in this year's large-scale operation will increase to 370 buildings.

To provide support to the enforcement actions of the BD, the Buildings Legislation (Amendment) Bill 2011 was tabled by the Development Bureau to the Legislative Council in 2011, which is now being scrutinized by the Bills Committee. The proposal to allow the BD to apply to the Court for warrants under the Bill will facilitate enforcement by the BD against "sub-divided units". Besides, the Development Bureau has planned to incorporate building works generally involved in "sub-divided units" into the minor works control system, so that owners who wish to carry out works to sub-divide their units are required to engage qualified professionals to conduct and supervise the relevant works, thereby enhancing the quality and safety of such works. After this proposal is implemented, the BD can set up a database on the quantities and location of building works associated with "sub-divided units" according to the documents received under the minor works control system. This will enable the BD to monitor such works more effectively and take appropriate enforcement actions.

Overall speaking, the objective of the housing policies of the SAR Government is to provide housing options at different levels to people with varying affordability. As for low-income families who cannot afford private rental accommodation, as I said earlier on, our policy is to provide PRH to them.

On top of PRH, we provide various types of subsidized housing, such as second-hand HOS flats in the HOS Secondary Market. In this market, owners are allowed to sell their flats to PRH tenants or Green Form applicants without premium payment. Also, there are flats under the new HOS. Furthermore, in the private residential property market, those units that are affordable to general members of the public, including HOS flats put up for sale in the open market, and those units developed by the HS under the MHPP will provide affordable and "no-frills" flats to people who are not eligible for public housing. Meanwhile, the Government will, through land development, ensure adequate supply of sites for housing development in the private market, so that the market can continue to play its role and provide residential flats at market price for people aspiring to buy home ownership, with a view to meeting the diversified housing needs of people with different levels of affordability.

President, as I said in the beginning of my speech earlier, the housing issue is closely related to the people's livelihood. The Government has responded to the housing needs of people in different strata from different angles and at different levels, and adopted decisive measures to address issues of public concern. I understand that Members will further speak on issues related to housing later. I will draw a conclusion and give a consolidated response to Members' concerns and proposals after listening to Members' speeches on this motion. Thank you, President.

**MR ALAN LEONG** (in Cantonese): President, rightly as the Secretary has said, housing is indeed closely related to Hong Kong people, and it is also the most distressing problem to Hong Kong people. As many people must have noticed, Financial Secretary John TSANG has recently admitted in his blog that property prices have recorded an accumulated increase of 74% since early 2009 and are even 5% higher than the peak in 1997. The home purchase affordability of the people has risen from a low level of 32% at the end of 2008 to 46% at the end of 2011. This is only the percentage in the current environment where a low interest rate prevails, and if the interest rate rises to 3%, the home purchase affordability will further rise to 59% of the income, which is far higher than the long-term average of 50% from 1991 to 2010. This shows that the people face high pressure and risks in buying their own home.

President, a residential unit for "first-time home buyers" cost only around \$2 million three years ago but the price has already increased to nearly \$3.5 million now. If a mortgage loan being 70% of the property price is taken out, it still takes around \$1 million for the down payment, which is downright an astronomical figure to young couples who plan to buy a property to get married. In this connection, John TSANG said (and I quote): "The Government will continue to keep a close watch on the property market and if necessary, I will not hesitate to introduce further measures to prevent the property market from overheating again" (end of quote). The Financial Secretary adopts such verbal coercion from time to time. Like the story of "The boy who cried wolf", it could at first create a slight deterrence on the speculators but as he resorted to this approach more and more often, other people would simply pay no heed to what he said.

President, some people have expected Chief Executive elect LEUNG Chun-ying to put the unbridled property market onto the right track after he

assumed office. However, while Mr LEUNG had introduced several drastic proposals in the draft that he first prepared to solicit opinions, the most controversial of which being the housing policy of building residential flats and selling them only to Hong Kong people, he "pulled his punch" in the platform published subsequently by including the pre-condition that this will be introduced only when the property market is overheated. What is more, while he first proposed to build 35 000 PRH units annually and increase the plot ratio, he corrected himself later, saying that the production of PRH units would be maintained at 75 000 units over the next five years, just that he planned to make available the other half (about 35 000 units) to be completed in the later stages of the programme one year ahead of schedule.

What exactly does Mr LEUNG Chun-ying mean in proposing to complete 35 000 units one year ahead of schedule? He has not given any explanation. This shows that the Chief Executive elect was very loose in formulating the housing policy, and he made public the policy before giving clear consideration to it. After assuming office on 1 July, the next-term Government must more clearly give an account of the housing issue which is a great concern to the public.

President, in order to address the housing problem, we call for the provision of 30 000 PRH units annually to ensure that applicants for PRH units can be allocated units in not more than three years. Besides, it is necessary to expedite the development of PRH units for the elderly, thereby shortening the waiting time for the elderly and hence enabling more elderly people to live a secure old age. HOS units have all along been a major rung on the housing ladder for the public and HOS units can to a large extent increase the turnover of PRH units. President, according to statistics, between April 1981 and March 1997, the HA recovered a total of 96 700 PRH units from the sale of HOS units to PRH tenants, meaning that an average of about 9 000 PRH units were recovered on a yearly basis. However, between April 1997 and March 2004, the number of HOS units sold to PRH tenants dropped significantly and as a result, only about 45 400 PRH units could be recovered, meaning an annual recovery of only 6 500 units on average. Although Donald TSANG announced in his last Policy Address the resumption of HOS construction, the first batch of HOS units will be launched onto the market only in 2016 and worse still, only about 2 500 units will be provided in the first year, which is indeed far too inadequate.

At least, a measure more capable of producing immediate results that this Government should take is to adjust the ratio of Green Forms to White Forms by doubling the proportion of White Form applicants from the past 20% to 40% and thus changing the ratio of Green Forms to White Forms to 6:4. In the meantime, the Government should relax the requirement by allowing eligible White Form applicants to buy HOS units in the HOS Secondary Market without having to pay the premium. If this measure can be implemented, second-hand HOS units can hopefully be provided to the many people in the lower-middle class who cannot afford buying their own property in the private sector as well as young couples who have worked for several years and wish to buy their own home to get married. In this way, the turnover of HOS units can be speeded up, thus killing two birds with one stone.

Given that there are still four years before the completion of HOS units, we propose that the Government should provide a tax allowance to people who live in rented residential units in the private sector during this period of time, so that people who do not own a property and are living in rented units can enjoy a tax allowance. President, to the many people who live in "sub-divided units" while waiting for PRH or people who have to scrimp and save in order to meet the down payment, their problem is just that the living space is too small but they at least do have a shelter. However, we cannot neglect the fact that many people have remained "shell-less snails". As the owners of their flats have kept on increasing the rental, these "shell-less snails" who do not even have a shelter all the more deserve our sympathy. This has also explained why the formulation of a sound housing policy can brook no delay. I so submit.

**MR WONG KWOK-HING** (in Cantonese): President, today Mr WONG Kwok-kin has moved this motion. I hope that the incumbent SAR Government will really seize this opportunity to listen carefully to Members' views so that it will adjust its outdated mindset and approach which fail to answer people's aspirations.

President, what I am holding in my hand is the Secretary for Transport and Housing's response to the housing problems raised by us in respect of the 2011-2012 Budget. We can see that so far, the incumbent Government is still repeating the same sentence. What is that sentence? It is a sentence that we feel bored when hearing it because there is nothing new in it and it is

meaningless, and that is, the Government will maintain the average waiting time at three years as its target, build 15 000 new units per year or 45 000 units in three years. The Government insists that this is its policy on increasing PRH and refuses to further increase the quantity.

If our Government continues to insist on this statement, we will certainly feel very disappointed. However, we can see that the term of the incumbent Government will come to an end in two months and 12 days or 72 days if today is also counted. I am really happy about this because the antiquated housing policy of the incumbent Government will prevail for 72 days only. I believe the next-term Government will turn over a new leaf in Hong Kong's housing policy after assuming office.

Even so, I would like to take today's opportunity to urge the current Government to reflect on this and make various preparations for the next-term Government to increase the PRH construction, resume the production of a suitable amount of HOS flats, and rationalize the PRH ladder and the turnover of PRH flats. In particular, I hope that the Secretary will remember the last sentence she uttered in her response to my oral question yesterday. She said she would do her best to effect co-ordination. I hope she will really do so and stop clinging to the antiquated mindset.

President, I originally have prepared other contents for my speech. But I think the response by the Secretary for Transport and Housing to Mr WONG Kwok-kin's oral question yesterday is quite interesting and innovative. It further illustrated that the Government's housing policy is antiquated, conservative, and unable to keep tabs on public sentiments and public opinions. Why do I say that this piece of information is new? According to the Government's information, every year there are many non-elderly one-person applicants who are interested in applying for those vacant PRH units which are not popular.

President, you told me yesterday that I could not make a long speech because it was not a debate session. Today I can elaborate a little bit more. I would like to point out what PRH flats are not popular. In general, as far as I know, these refer to flats near a refuse chamber or at a location facing northwest. In fact, some flats are not taken up by tenants and therefore left vacant for a long period of time because of a most critical reason: some detestable incidents or even homicide cases have occurred in these flats. As no eligible applicants will

accept the allocation of these flats to them, these flats have become inferior options.

However, many applicants are applying for the allocation of these flats, which are regarded as inferior options in PRH. They are the non-elderly one-person applicants. There is a series of figures showing that the Government has not increased the production of PRH units, thus resulting in a large number of applicants on the Waiting List. According to the annex provided by the Government, a total of 52 084 non-elderly one-person applicants are waiting for these undesirable flats in the past five years. While the number of applicants in the current year is 15 997, it was 11 972 in last year. While the number of applicants in the year before last year was 8 531, it was only 8 293 and 7 291 respectively in the previous two years. In other words, the number of non-elderly one-person applicants who apply for these undesirable PRH flats has been increasing and it has now exceeded 50 000.

What is the concept of 50 000-odd applicants? It accounts for one third of the 160 000 applicants. Why are these people, who accounts for one third of the applicants, or the non-elderly one-person applicants, not allocated these undesirable flats which are obviously regarded as inferior options, even though they have been waiting for a long time? This shows that the Government has not made vigorous efforts to increase the supply of PRH flats, in particular, those that can house one or two persons. As a result, an inadequate supply has led to a distorted situation. Because of their low incomes and expensive rents, these applicants are forced to live in "sub-divided units", cubicles and coffin-sized units.*(The buzzer sounded) .....*

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

**MR WONG KWOK-HING** (in Cantonese): So, I hope the Government will make vigorous effort to perfect its housing policy.

**MR CHEUNG KWOK-CHE** (in Cantonese): President, according to the data of the Housing Department (HD), as at the end of September last year, the number of applicants on the Waiting List has reached 165 000, representing a sharp

increase of 6% compared with 155 000 by the end of June last year. Just as in the past, the Government gave us a cliche answer, saying that "with an annual production of 15 000 PRH flats, we can maintain the target average waiting time at around three years for general Waiting List applicants." Any primary school pupil will tell you after some simple computations that the target of maintaining the waiting time at three years for PRH applicants is a mission impossible. If we take a closer look, it is not difficult for us to find that the Government is playing a "numbers game". According to the definition of the Government, the so-called "general" — I have to emphasize "general" — general applicants on the Waiting List refer to family applicants. Meanwhile, the HD has also designated another queue for "non-elderly" singletons, who are not on the "general" Waiting List and will be dealt with separately. These non-elderly one-person applicants who originally account for 55% of the total number of applicants on the Waiting List are separated. In so doing, the target average waiting time of around three years for PRH applicants can certainly be achieved.

In the past, many Members asked the Secretary in this Council how to shorten the waiting time. In response, the Secretary would beat around the bush by repeating such words as "general Waiting List", "non-elderly one-person applicants" or "average waiting time of around three years" in order to confuse us and muddle through. In short, the plain fact is that most of the waitlisted applicants will not be offered a PRH flat although they have waited for three years. Therefore, it is meaningless to say that the number of applicants on the Waiting List will increase in times of economic hardship.

High-ranking officials have all along been saying that there is a shortage of land in Hong Kong. As I pointed out in the discussion on the motion on expanding land resources on 29 February and cited the studies of Dr LAU Kwok-yu, Associate Professor of the City University of Hong Kong, only less than 7% of the land in Hong Kong are used for housing, and land occupied by PRH flats accounts for only 1.4% of our land, or only 16 sq km. However, this 16 sq km of land has taken care of the housing needs of almost half of the population in the territory. If the Government considers it difficult to identify land for residential development, it may consider relaxing or changing the uses of vacant lands zoned for "Government, Institution or Community" uses, or the so-called GIC sites, for the construction of PRH flats so that the problem can be resolved immediately. The concept of land shortage against a dense population had been written in our textbooks when we were primary school pupils so that we

have acquired an initial understanding of this. But when we have grown up into adults, we understand that land is actually not in shortage. Rather, there is a lack of land supply. The problem in fact lies in whether the Government will supply land or whether land is supplied to us. Apart from the GIC sites, there are a lot of vacant sites, such as the Police Quarters behind Kwun Tong Police Station, Police Quarters in Western District and the vacant government quarters at Cheung Sha Wan MTR Station. In addition, there are also sites of old buildings resumed by the Urban Renewal Authority. Hence, we really do not have to worry about lands.

President, "sub-divided units" are "landmines" in our community. The fact that there are more than 100 000 people living in cubicles, "sub-divided units" and caged homes in Hong Kong is the shame of our housing policy. The long-term solution is to accelerate the construction of more PRH flats and HOS flats, while the provision of rental allowance to low-income applicants on the Waiting List is a kind of short-term relief measures. In fact, the Government cannot wait any longer. However, it seems that the resumption of HOS development and even the introduction of My Home Purchase Plan, which is neither fish nor fowl, are not suitable for the middle-class people who account for a vast majority of our society. We should not ignore the fact that many middle-class people are facing great pressure in life. They have been bullied by the real estate hegemony. Their hard-earned incomes are used to make rental and mortgage payments, and most of these have fallen into the pockets of property developers. Furthermore, they have to face dirty tactics employed by property developers in building and selling flats. Currently, two jokes are circulating on the Internet. The first joke is: Why was Siu Ming not hurt even though he had jumped from the fifth floor of a building? The answer is: He has jumped down from a flat on the fifth floor of Oceanaire. The second joke: Why did he jump from height? Because he has bought a flat at Oceanaire.

President, apart from urging the Government to consider the said suggestions to increase residential land, I also urge the Government to set a construction deadline for land bid by property developers to prevent hoarding, and to introduce legislation on monitoring the sale process of uncompleted first-hand residential properties and the salable area of flats. President, as the new Chief Executive has been elected, I wish to remind the Government, in particular the Chief Executive elect, one point. The people, who have been subjected real estate hegemony for 15 years after the handover, have pinned high

hopes on Mr LEUNG Chun-ying. Therefore, the prime task for the next-term Government is to solve the housing problem in Hong Kong.

President, I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, Mr WONG Kwok-kin said at the very beginning of his speech that the housing problem had been discussed many times. According to his statistics, four to five discussions had been conducted during the past year, not to mention those during the meetings of relevant panels of this Council. He said the only progress in sight was the decision to resume HOS development, which has probably become the "benevolent policy" of the Government last year. Even if we do not count last year, we have actually talked about the housing policy on numerous occasions ever since Donald TSANG's assumption of office as head of the Government. But how do we end up? We are largely stuck in a rut and nothing has changed. The Government, at the most, introduced the My Home Purchase Plan (MHPP) and resumed the HOS. The Government may think it is the best that it can do. But the point is that the Government has yet implemented these two schemes. Everything still remains on the drawing board, and it may take a very long time to realize them.

We have also heard that the sales of residential properties and uncompleted first-hand residential properties would be improved. We always talk about introducing some measures to really solve the housing needs of the lower-middle class as well as assisting them in purchasing residential flats, but there is hardly any new policy to improve the situation. As the Secretary has reiterated, a consensus has been forged by society that the average waiting time for PRH is three years. However, it has been seven to eight years since and the Government is still reluctant to review the waiting time. When do we see a new policy? Because of this thee-year waiting-time pledge, the average production of PRH flats is still standing at 15 000 per year. However, it is only an average quantity, not a frequently achievable level of supply. Therefore, the number of waitlisted applicants for PRH has remained at over 100 000 for years. The figure currently stands at between 150 000 and 160 000. The situation remains unchanged and, similarly, the Government's policy has not changed a bit. Those on the Waiting List have to keep waiting and nothing has changed.

Although the Government has continuously defended that it has done a great deal in looking for suitable lands for PRH production in addition to the resumption of HOS as well as the introduction of the MHPP. The problem, however, remains unresolved. There are still more than 100 000 family applicants waiting. The figure does not even include many unqualified families. For example, there are families with half of their members having resided in Hong Kong for less than seven years; there are also families whose total income has just slightly exceeded the upper limit. How about those unqualified persons who are not accounted for? They may be living in "sub-divided units", cubical apartments and even private residential flats paying expensive rents. Has the Government helped them? Have they been taken care of? The answer is absolutely no.

Mrs Carrie LAM can be regarded as the smartest person. How smart is she? She said that rooftop shanties and "sub-divided units" had to be demolished, no matter what. President, nobody objects to her assertion. Even the residents say it is all right because they no longer have to live in fear or suffer the elements. Frankly speaking, this kind of living environment is very bad. Improvement of the living environment is exactly what they have been looking for. The question is that when the Government decides to demolish these units, there is neither any special measure nor facility to enable those affected to move into some permanent dwellings. In other words, according to the current housing policy, you will have to join the Waiting List for allocation of PRH or rent another place once your unit is demolished. This gives rise to a phenomenon — moving to the rooftop shanty of another building once the rooftop shanty I have been dwelling is demolished; or moving to the "sub-divided unit" of another building once I am compelled to move out of the "sub-divided unit" which I have been living in. The situation remains *status quo* and basically unchanged. Not only has anything changed, what is even more saddening is that some unscrupulous landlords will raise the rents if they know the tenants are running out of options. For a so-called "sub-divided unit" with an area of less than 100 sq ft (with a net area of over 60 sq ft), the current rent is more than \$2,000. How can they afford such high rent?

Many people living in rooftop shanties or "sub-divided units" have been telling us that they would not move away no matter what. If they are ultimately compelled to vacate, they rather sleep under the staircases or beneath the flyovers.

Home is where the heart is. For these people, they absolutely do not have a home where their minds can perch in peace.

Concerning the housing policy, the speech just given by the Secretary did not mention how to handle or make arrangements for these people. Instead, they are left unattended. Can the Secretary think of any practical way to help them out? I do not want the Secretary to be like Secretary Dr York CHOW by constantly saying, even now, that the average production is 15 000 units per annum. How about the future then? When the next Chief Executive takes office, I do not know whether she will continue to take up the position as the Secretary for Transport and Housing because LEUNG Chun-ying promised in his election platform to increase the annual supply to 30 000 units. By that time, will the Secretary change her tone to say 30 000 units instead? If she changes her tone, how will she explain and account for such a change? I really have no idea. Since LEUNG Chun-ying has proposed to build 30 000 units, why can the Secretary not consider implementing the proposal expeditiously? Since it has to be implemented sooner or later, why does she not do it quickly with a view to resolving the problem as much as we can?

Besides, some middle-class kai fongs currently living in private residential flats as tenants are worrying every year that they may be kicked out by the landlords. Why? Because the landlords can demand a rent hike. Currently, there is no control over the raising of rents, so these kai fongs are very frightened upon expiry of the tenancy agreement that they will be again subject to a rent hike. I have friends who have to move almost every year because of the huge increase in rents. Unable to afford the hike, they have no choice but to find places asking cheaper rents. That is the reason why they have to constantly move.

Therefore, I agree to the proposal of Mr LEE Cheuk-yan, that rent control must be implemented. Although Ms Miriam LAU holds that the implementation of rent control is like "turning the clock back", I think it is all right to "turn the clock back" if such measure is deemed appropriate to society as a whole.

**MR CHAN KAM-LAM** (in Cantonese): President, the housing problem has been an issue of great concern to us over the years. Property prices have scaled new heights time and again and the concern of the public about the housing

problem reflects the failure of the Government to deliver on the housing policy. As a result, it is difficult for the public to acquire their own homes and there are grievances in society. In fact, since 2009, I have told the Government on many occasions that given the obvious trend of rise in property prices, the general public will be priced out of the market, so the Government has to introduce an effective housing policy in a timely manner, for example, by increasing supply, resuming the HOS, and so on. However, we have spoken in vain because the authorities simply would not listen at all.

We have also warned that if the critical moment is missed and once a property bubble has formed, the Government would find it an arduous task and face a dilemma if it wants to tame the property market. Unfortunately, so far, although the Government admits that there are unstable factors in the property market, it is still holding fast onto its principle of "big market, small government". Not to mention reformulating a long-term housing policy, it is even unwilling to adjust the housing policy formulated in 2002. As a result, property prices have rebounded sharply since 2009 and a year later, they already surged past the peak before the financial tsunami. Subsequently, property prices reached new highs. Later on, the authorities woke up to the gravity of this problem and introduced a series of initiatives, including increasing land supply, levying the Special Stamp Duty, revising the loan-to-value ratios, suppressing speculation in the property market, introducing "flats with limited floor area" and the My Home Purchase Plan and resuming the HOS. However, since the most opportune moment is gone, these fragmented measures are just ineffective against the proportions of the problem.

A fortnight ago, again, the Financial Secretary made comments about "attaching great attention to the risk of a property bubble" and pointed out that "the property price has already accumulated an increase of 74% since the beginning of 2009 and is 5% higher than the high prices in 1997. Home purchase affordability has surged from the low point of 32% in the fourth quarter of 2008 to 46% in the fourth quarter of last year.". However, apart from saying that he "would closely monitor the situation and maintain his grave concern for the property market, and introduce further measures without hesitation when necessary to prevent the re-emergence of an overheated property market", the Financial Secretary has done nothing else.

President, the crux of the problem of soaring property prices nowadays lies in the imbalance in supply and demand, or demand outrunning supply and two

Hong Kong Property Reviews published by the Rating and Valuation Department can more or less reflect the seriousness of the problem.

According to the initial figures published in the Hong Kong Property Review 2012, in 2011, the vacancy rate of residential properties in Hong Kong in 2011 was only 4.3%, representing a return to the low level in 2009 and also the lowest since 2000. This low vacancy rate amply reflects the fact that demand has outrun supply in the residential sector. Moreover, in the past two years, there has been no sign of amelioration whatsoever.

As regards the volume of supply, the Hong Kong Property Review 2010 estimated that 14 260 and 10 960 units would be completed in Hong Kong in 2010 and 2011 respectively. However, if we do the reckoning in retrospect now, we will find that the actual number of units completed only stood at 13 410 and 9 450 respectively, so the shortfall in units completed in these two years was 2 360 units and this number is equal to the number of units in a housing estate called the YOHO Town in the New Territories. Given the rising demand and waning supply, how can there be any room for downward adjustment in property prices?

President, of course, there are many causes for the serious imbalance in the property market nowadays and they are also very complicated. However, one of the main reasons for the Government being caught in a quandary and for the passiveness and helplessness of the Government in dealing with the housing problem is, we believe, its being bogged down by historical burdens and its obstinate adherence to the doctrine of "small government". Throughout the years, the authorities have been unwilling to change the housing policy practiced by it for a decade and administer the right cure to the problem. On 13 November 2002, the former Secretary for Housing, Planning and Lands, Mr Michael SUEN, said in a statement on the housing policy in the Legislative Council, "That said, the unabated deflation, lacklustre domestic consumption, along with other external uncertainties and the current state of over-supply of flats have posed immense pressure on the property market. Against the peak in 1997, property prices have tumbled by over 60%. The volume of transactions also shows a marked decline. The plunging net asset values in the private residential market have inhibited economic recovery.". However, if we look at the present situation, the various circumstances mentioned by Secretary Michael SUEN have seen great changes and even though the Government has introduced a number of

measures to curb the soaring property market, generally speaking, the situation is still precarious and the property bubble is in great jeopardy.

There are less than two months left in the term of the current Government, so little can be done now. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) hopes that the new Chief Executive will understand that the housing problem is an administrative issue of paramount importance to people's livelihood, strike a balance in the intricate relationship between housing being a basic necessity of the public and an investment product, formulate a long-term housing policy and devise sustainable programmes to supply public and private land and housing having regard to assessments of housing need. We believe it is only in this way that the imbalance in the demand and supply of residential properties can be remedied fundamentally and the property market can be steered back onto the right track.

President, I so submit.

**DR PRISCILLA LEUNG** (in Cantonese): President, I believe the problem of housing supply in Hong Kong is a focus of discussion in each Session of this term of the Legislative Council. Each year, we would propose various ways of meeting the prevailing demand for housing, in particular, the demand for public housing, to the Government and the Chief Executive. Among them, we have proposed to the Government a number of times the development of new towns, expanding land supply and the formulation of a well-conceived population policy to address issues relating to housing and the HOS. On the demand to formulate a population policy, I voiced it as early as 2009 but so far, the Government has been unable to deliver any result in respect of the population policy, so this is also a task to which we hope the next Chief Executive can accord priority.

In fact, the emergence of the housing problem, coupled with the problem of Mainland children whose parents are non-Hong Kong residents, have aroused concern among all members of the Hong Kong public about the population problem. If we do not start dealing with the housing problem by way of a population policy, the genuine needs of society and the market will likely be neglected. As a result, too much public housing may be built in certain places while there is too much private housing in other areas, thus arousing concern

among members of the middle class. Therefore, I still hold that a scientific approach should be adopted to deal with the housing problem.

I wish to use the several minutes today to explain how the Government wades across the river by feeling its way, thus doing a slovenly job and showing a lack of planning. This specific example is also reported in the press today and it is related to the redevelopment of Pak Tin Estate.

Last night, I went to the Pak Tin Estate to have discussions with residents there and in fact, all of them are pleased with the redevelopment plan but the sudden announcement of redevelopment by the Government has left many people feeling all at sea. As the press reports say, some residents have just completed the renovation of their units but just like many District Council members who support redevelopment, they learnt about the redevelopment only on that day, when they were not prepared in any way. When we discussed this issue with many residents of Pak Tin Estate, they all hoped that the Government would tell us why there is such great urgency. As far as I know, there are also several housing estates in Hong Kong the redevelopment of which will also be announced suddenly, so why is it necessary for the Government to take this approach and when will the announcements be made?

Second, the several old public housing blocks the redevelopment of which has been announced are all 38 years old and Shek Kip Mei Estate, which residents will move to, consists of new public housing blocks. In this regard, the residents hope that through me, they can ask the Government and the Housing Department to clarify several issues. The first is the floor area. The reason that residents of Pak Tin Estate have hoped for the redevelopment of the housing estate for many years is its dereliction and their main goal is to improve their living environment, so as to live in peace and work with contentment. And it also so happens that my office is located in Shek Kip Mei Estate, which is ready for occupation. Let me give a specific example. In Shek Kip Mei Estate, which is about to be occupied, the size of a unit for one to two persons is 14.14 sq m, that is, only some 100 sq ft, but the existing units for one to two persons in Pak Tin Estate are over 200 sq ft in area. In that case, will not the size of the new homes which residents move into be smaller?

Another example is that in the existing Pak Tin Estate, the area of a unit for four persons is 34 sq m, that is, some 300 sq ft to 400 sq ft, but according to the

information obtained by us, the units for two to three people in Shek Kip Mei Estate are only 22.3 sq m in area, that is, some 200 sq ft. Therefore, even though the residents feel happy about the redevelopment, they are not free of worries. They are worried about whether or not their living space would become even smaller after moving into their new homes.

In addition, in respect of the rent, in Pak Tin Estate, the rent for the same type of units in which they live is \$1,200 but after moving into similar units in Shek Kip Mei Estate, they will have to pay at least \$1,800 in rent. To these grass-roots families, an increase of more than \$600 in rent is a heavy burden. Moreover, many residents are concerned that many demographic changes may occur in the course of removal and a lot of details have not yet been announced, so why is the Government in such a great haste to carry out redevelopment?

I hope that the Government will adopt the principle of improving people's living as the aim of redevelopment. If the living space for residents at present is larger than that in the newer units they will move into, and according to the figures provided by residents, the difference is at least 30 sq ft to 50 sq ft, or 3 sq m to 5 sq m, the Government should be more generous when allocating new units. In other words, households living in units for one to two persons should be allocated units for two to three people. It is only in this way that the living space will be comparable to that of their original units, and four-member households should also have their units upgraded by one level and it is reasonable only if they are allocated units for four to five people. Otherwise, the units in which they live would only become smaller but the rents would become higher. They would only end up being disappointed, which is certainly undesirable.

These are by no means minor problems because the authorities still have to redevelop many other housing estates, so they must do so from the perspective of people's livelihood. In fact, the Government should visit the local communities to hold discussions with the residents before making announcements. The policy announced by the authorities should be well-conceived and the measures should bring good news rather than worries to the public. Therefore, I hope the Government can give a response here on the number of similar old public housing estates the redevelopment of which it would announce in the near future. What arrangements will be made when carrying out redevelopment? Regarding details with the greatest bearing on residents, will reasonable arrangements and allocations be made for them in advance? Thank you, President.

**MR ALBERT CHAN** (in Cantonese): President, "If a thousand, ten thousand mansions could be built/That shelter all the poor scholars, together in joy./Solid as a mountain, the elements could not move them."<sup>1</sup>. This poem entitled "Song of My Cottage Unroofed By Autumn Gales" written by DU Fu 1 300 years ago consists of only a few lines but it describes how the poet yearned for an abode at that time, so that he would not have to be homeless, drifting and be battered by the elements. It turns out that such a situation and problem encountered 1 300 years ago in times of war and chaos, in particular, the problem of housing, is now commonplace in Hong Kong, a place protected by a mighty country and a so-called developed region with an annual per capita income of as much as US\$30,000.

In fact, the circumstances described in this poem by DU Fu closely resemble the problems exposed by a number of recent surveys in Hong Kong. In the "Housing Misery Index" published just today, among five major cities, which include Hong Kong, Beijing, Shanghai, Singapore and Taipei, Hong Kong is at the top. The misery index of Hong Kong people shows that 14% of Hong Kong people live in misery, and this accords with the fact that 1.27 million members of the public live in poverty. Not only are Hong Kong people homeless and drifting, cramped into small units, they also have to live dumbly in cubicles with temperatures that reach 38°C and even 40°C in hot summer. They are also forced to move into "sub-divided units" and if they breach the law by sneaking into industrial buildings and living in them, they will be evicted by the Government. Some elderly people even had to sleep rough, enduring the wind and the cold and were frozen to death in great suffering. Earlier on, we held a memorial service for an elderly person in Sham Shui Po.

President, in fact, this series of problems is the result of blunders in Hong Kong's housing policy but this situation was not created by the incumbent Secretary. However, since she has to take remedial actions on the problems inherited by her after taking office, it can be said that although she has the desire to do something, she is powerless. In fact, the source of the disaster lies in the "SUEN's nine strokes" back then. When "SUEN's nine strokes" were announced, I already forewarned that "SUEN's nine strokes" would surely lead to housing problems in Hong Kong, bring misery to the grassroots and drive up property prices substantially. In the same vein, when the Government made a

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<sup>1</sup> Watson B. (2002) *The Selected Poems of Du Fu*. New York, Columbia University Press  
<<http://www.chinese-poems.com/d08t.html>>

funding application to build a youth hostel in the Eastern District back in those years, I strongly opposed it, believing that the choice of the site was wrong and serious loss would surely be incurred. At that time, no one heeded my views and I once told Eric LI that he should not accept whatever the Government proposed and that the scheme was doomed to failure. Unfortunately, what I said was spot on.

Most of the views voiced by me in the legislature were ultimately proven to be correct but it seems the Government is unwilling to accept them. Any ordinary person well-versed in public policies will understand clearly that with no production of HOS units, a reduction in the volume of public housing construction, and the absence of control on the development of private land and supply of private flats, the adverse consequence of a gap in housing supply would surely arise. This is because, basically, the local population is stable and there would not be any significant decrease. Unless you put all the people in concentration camps and shoot them, given the stable population that increases only slightly, problems will surely emerge if the housing supply is reduced drastically.

In the two decades of the 1980s and 1990s, the annual total housing supply was 85 000 units on average, but this number was suddenly slashed to less than 30 000 units and even to just about 20 000 units, and in the year with the worst situation, the supply of private flats and public housing units added together barely reached 20 000 units. Just consider this: With a drastic drop of 80% from some 80 000 and even 90 000 units at the peak to some 10 000 to 20 000 units all of a sudden, how can property prices not surge due to the drastic drop in overall housing supply?

All that talk about shortage of land or other constraints is actually nonsense. If land is supplied in a systematic and planned manner, land is surely available. At present, a lot of disused farmland can be found in Hong Kong. Moreover, the development of new towns is slow and in particular, the development of land in the new towns is the most distorted. I often point out that the areas surrounding Tin Shui Wai all consist of disused farmland and land, so the Government can expand the boundary of Tin Shui Wai, so that it can house an additional tens of thousands of residents. In addition, the authorities can also develop some of the land in Tung Chung and speed up the development of Hung Shui Kiu and Kwu Tung. In this way, some of the demand for housing can be

met. I have also proposed that when new roads and boundary crossings are developed in Northeast New Territories, planning should be carried out for the nearby land. In particular, in areas with railway development, planning should be carried out anew of the adjacent land. This will surely increase land supply significantly, so that the demand for housing can be met.

The cause is none other than problems in the ability of the Government in terms of policy implementation and administration. The reason for not taking measures is the absence of instructions from the senior level, and without any instructions from the senior level, those below do not have to do anything. If the Government has the resolve, it would take actions just as in the British-Hong Kong era. Many civil servants have served in government departments since the British-Hong Kong era, so why were they able to deliver under all those superiors with "red whiskers and green eyes", but when it is the turn of the Chinese to govern, they have backed off all of a sudden?

This is obviously because there are transfer of benefits and collusion between the Government and business that involve people at the senior level. They want to cosy up to hegemonic property developers, so that they can drink red wine, eat abalones and shark's fins and visit countries and sightsee with the big bosses of consortia, while completely neglecting the basic needs of the people. Therefore, the Government must stop churning out nonsense, while Members must not "chide the Government a little but offer a great deal of help" all the time. Rather, they should force the Government to deliver results and formulate policies on housing and land supply that meet the housing needs of Hong Kong people.

**DR PAN PEY-CHYOU** (in Cantonese): President, it is raining cats and dogs outside today. When the skies clear up after the rains, we will often see many slugs in the parks and the countryside. I have always had immense interest in organisms. Recently, there appears to be a growing number of slugs. When I mentioned this to a young university student who was studying Biology, he told me with a "bitter smile" that slugs might be snails which could not afford to buy a shell. Property prices are really exorbitant in Hong Kong. Those who cannot afford housing are not only human beings!

In recent years, property prices have continued to soar in Hong Kong. According to the private residential property price index published by the Rating and Valuation Department, the index was 107.8 in February 2009 and rose by 30% in just one year to 140.7 in February 2010 and another 25% to 176.4 in 2011. In February this year, when everyone thought that property prices would cool down after repeated measures taken by the Government to arrest the rise, the relevant index rose a further 3% over the previous year to 182.4. The cumulative increase over the past three years has reached more than 60%.

In the past three years, Hong Kong economy has indeed rebounded from the financial tsunami. Nevertheless, no trade or occupation could have seen a 60% increase in income. In fact, over the past couple of years, the annual rates of wage increase for ordinary wage earners probably ranged from 5% to 10%, and the rates of wage increase for some were even lower. The race between wage increases and property price hikes is more than a running race between a tortoise and a hare!

President, I believe people who have lived elsewhere will definitely feel that Hong Kong people work extremely hard and live under stress in a quick-tempo environment every day. They work so hard simply because they want to lead a better life and, most importantly, have their own "cozy nest" where they can relax and enjoy life with their family members. However, they find housing a great problem here in Hong Kong.

Hong Kong was extremely poor decades ago when the economy had yet to take off and there was an influx of refugees. At that time, many people were living in wooden huts and squatter huts on the hillsides and cubicles. Nowadays, Hong Kong has become an international financial hub and a bustling metropolis. Yet, most members of the public still have to worry about their homes or are suffering from headaches because of their problems with home ownership. Different people have different problems. People having acquired their own homes have to toil in order to service the mortgages because the burden is extremely heavy. Moreover, they fear that their properties will become negative assets should property prices plummet. Those who have not purchased properties or cannot afford the down payment — the "shell-less snails" — have to bear exorbitant rents, given the remarkable rent hikes in recent years. These "shell-less snails" are in constant fear of becoming increasingly incapable of

acquiring their own homes as property prices soar higher and higher and, in the end, having no chance at all to purchase their first home. Hence, some people are compelled to make a last desperate effort by purchasing a flat for fear that they will never have a chance to purchase their first home should they fail to do so now.

While cubicles in deplorable conditions, "sub-divided units" and caged homes can still be found, people on the Waiting List are still waiting to be allocated a PRH unit despite the long wait. Traditionally, Chinese people yearn for married life. In Hong Kong, however, it is extremely difficult to acquire a home, not to mention starting a business. For many people, a flat is, like a mirage, within sight but beyond reach.

I do not deny that the Government has striven to cool down the property market with, for instance, additional land supply, nine proposals and 12 requirements, additional stamp duty, resumption of HOS construction, and so on. Nevertheless, the Hong Kong Federation of Trade Unions is more concerned about the affordability of the public. We hope the Government can assist the public in coping with high property prices and rents while increasing land and housing supply. In December last year, we already proposed to the Financial Secretary that it was necessary to take care of the mortgage and rent burden on the sandwich class. At that time, we proposed to the Government that \$100,000 per annum be offered to sandwich families as a tax allowance for renting private residential flats in order to alleviate the pressure of paying exorbitant rents for these flats. Furthermore, we proposed that the validity period for the tax allowance for mortgage interest be extended to 15 to 20 years, with a view to relieving the burden on people servicing mortgages for their self-occupied flats.

While the Government ought to address the needs of the middle and sandwich classes, there is even a greater need for it to address the needs of grass-roots families, because it has all along turned a blind eye to the impact of property price hikes on the grassroots' housing needs because of its belief that the grassroots will have no problems so long as public housing is provided. However, the Government has failed to realize the growing number of people on the PRH Waiting List. Meanwhile, owing to their period of residence, some grass-roots families — such as new arrivals — are not eligible to apply for public housing. They can only live in such places as cubicles and "sub-divided units". Not only are the conditions of these places deplorable, their rents have also

continued to rise. So, the Government ought to provide rent allowance to these people. In our opinion, the Government should also raise the rent allowance for CSSA households expeditiously. We hope that, with the introduction of these measures, everyone in Hong Kong can have a decent place to live and no longer need to be "shell-less snails".*(The buzzer sounded)*

**PRESIDENT** (in Cantonese): Dr PAN, your speaking time is up.

**MS STARRY LEE** (in Cantonese): President, according to various surveys, housing has always been the first and foremost issue for members of the public. They all share the view that the next-term Chief Executive should accord priority to addressing the housing issue.

Just now, on behalf of the DAB, Mr CHAN Kam-lam has stated the stance of the DAB. Today, I wish to focus my speech on the housing demand of the "low-income middle class" or "marginal middle class". What does the "low-income middle class" mean and by what criteria is someone considered "middle class"? In fact, every one of us has a yardstick of our own. Some people will regard the amount of income as the principle criterion, while some will look at the career, academic qualification, consumption pattern, or even values. All these views are founded on different rationales.

Today, I will simply use income to define "middle class". How much income does one have to earn for him or her to be considered "middle class"? Housing has always been the greatest concern to Hong Kong people. Let us look at the ceilings of the monthly income of PRH applicants, which are set at \$9,200 for a singleton household, and \$14,116 for a two-person family. This means that families with a monthly income exceeding these ceilings will be compelled to purchase a flat or rent a private residential flat or even "sub-divided unit". Hence, I will use a singleton household with a monthly income of more than \$10,000 or a two-person family with a monthly income of more than \$15,000 as the watershed to examine the current conditions of these groups of people who are excluded from public housing.

How many people are considered belonging to the "low-income middle class"? According to the household information for the third quarter of 2011

published by the Census and Statistics Department, there were 44 000 singleton households with a monthly income between \$10,000 and \$14,999 and 63 000 two-person households with a monthly income between \$15,000 and approximately \$20,000. Roughly speaking, there are approximately 110 000 low-income households in Hong Kong, and the problems they are set to face are conceivable. A household with a monthly income of \$20,000 can really be considered to be not up to those above but even worse than those below. As their incomes are not high, little is left after paying for rents and living expenses. This is particularly so because of the high inflation, rising rents and exorbitant food and transport expenses. These people, who call themselves "month-end brokes", are really leading a bitter life.

Let me cite a two-person "low-income middle-class" family as an example. After paying for its monthly rent, \$5,000 in miscellaneous expenses, \$3,000 for supporting parents, three meals a day and other expenses on water, electricity, gas, and so on, they will indeed become "month-end brokes". Not only do they have no prospect of being allocated public housing, they also see the rents of private residential flats constantly rising. To this group of "low-income middle-class" people, acquiring their own homes is a distant dream. In fact, this issue has been discussed in this Council for a long time. Even in his last policy address, the Chief Executive agreed to resuming the construction of HOS flats, putting forward ideas and views on various aspects in relation to the eligibility criteria for applying new HOS flats and holding discussions with the community. Nevertheless, the number of HOS flats still remains at 5 000. Furthermore, the ratio between the green form applicants and white form applicants has yet to be finalized. Hence, there are still great grievances among these people.

Besides the zero chance of PRH allocation and the distant dream of home ownership, the SAR Government has also been turning a blind eye to the helplessness felt by these "low-income middle-class" people over a long period of time. Neither has the Government expanded the existing welfare measures and policy targeting the grassroots to enable them to be benefited in some measure. As a result, despite the fact that 10% of the families with the lowest income are living on CSSA and 30% of the low- and middle- income families can benefit from public housing in Hong Kong, this group of "low-income middle-class" people who have barely exceeded the threshold of PRH eligibility criteria can only keep sighing while looking at that hurdle. Many of them have even built up a lot of grievances as a result.

Hence, I earnestly hope that the SAR Government, whether of this term or the next, can seriously appreciate the actual living conditions of this group of people. Should the Government fail to address squarely their aspirations or sympathize with their actual living conditions, I believe their grievances will only increase, and they will even become the mainstay of opponents to the Government. I hereby call on the current-term Government, despite the little time left, to address squarely the genuine needs of this group of disadvantaged middle-class people with a new prospective and mindset.

President, I so submit.

**MR CHAN KIN-POR** (in Cantonese): President, Hong Kong's housing policy has always been one of the public's greatest concerns. In recent years, the Government's housing policy has been lacking comprehensive planning, but the Government has continued to adopt a stopgap mentality in addressing housing issues, thereby causing a lot of problems as well as leading to conflicts and grievances in the community.

Since the new Chief Executive has already been elected, I believe it is now an important opportunity for Hong Kong to enable the community to re-examine and formulate a long-term and comprehensive policy on housing. Furthermore, the situation is worrying as property prices have reversed to a rising trend in recent months and the property market has again sounded an alarm. Hence, this debate today is timely. I hope the relevant parties, particularly the Chief Executive elect, can listen to Members' views carefully.

We must have a general principle as the policy objective in formulating any policy. Naturally, the housing policy is no exception. In my opinion, the paramount principle of Hong Kong's housing policy should be led by public housing. Currently, nearly 50% of the population is living in public or subsidized housing. In the light of Hong Kong's current conditions, the ratio should be raised to 55% or even 60% to enable a larger proportion of the population to be allocated public housing, or primarily PRH units. Furthermore, an appropriate amount of HOS and sandwich class flats should be built for application by families which are ineligible to be allocated PRH flats but cannot afford to buy private flats.

I believe only through significantly increasing the supply of public housing can the problems of "sub-divided units", caged homes and cubicles be resolved, and the basic right of everyone to having a dwelling place be guaranteed. According to Singapore's experience, up to 85% of its population is living in condominiums built by its Government. It has been proven that the more people live in public housing, the more stable society becomes. This is because, with the possession of their own cozy nests, the people can then live in peace and work with contentment and the poverty situation can be ameliorated significantly. Singapore's policy of providing condominiums can not only resolve the housing problems facing its people, but also perform the function of fostering social harmony and reducing social conflicts, thereby better manifesting the Government's commitment to future social development.

Even if the supply of public housing in Hong Kong is suitably increased, I believe it will not have too much an impact on the private property market, because PRH tenants are grass-roots people who are not the targets of private properties. Moreover, rich people from the Mainland are fond of acquiring properties in Hong Kong in recent years. There will definitely be client sources as the future private residential property market will face the whole of China. In the future, property prices will most probably continue to rise due to the influx of Mainland people into Hong Kong to buy properties, thereby making home ownership difficult for the grassroots. Hence, it is now opportune to increase the supply of public housing to radically resolve the housing problem facing the grassroots.

As for the private property market, the only task for the Government is to arrange for an adequate supply of land for developers who will then decide on developments according to market demand. Currently, land supply should have been brought back to the right track, and there will be an adequate supply of land in the years to come. As for the Government, it should step up development for future land supply. I believe, with a long-term and ample supply of land, property prices can definitely be reined into stable development. In an earlier debate on the motion on "developing land resources" in this Council, I already pointed out that residential sites, industrial and commercial sites and farmland and fish ponds merely occupy 7%, 3% and 6% respectively of the total area of Hong Kong, reflecting that the room for development in the territory is actually far greater than what we imagine. Proper government planning of land can definitely guarantee an adequate land supply.

Lastly, before formulating its housing policy, the Government should first draw up a proper population policy, including calculating the total population capacity of the territory, before drawing up the policy to control the number of arrivals and improve the quality of these people. Otherwise, it will be just a waste of effort. Actually, even if the Government is committed to increasing the supply of public housing, the growing population — especially the grass-roots population — will still result in inadequate supply and failure to achieve its policy objective. Therefore, the Government must properly plan its population policy and undertake other supportive work simultaneously with a view to fully grasping the changing trend of the population so that its housing policy can be adjusted accordingly.

I so submit.

**PROF PATRICK LAU** (in Cantonese): President, a sound housing policy should be geared towards solving the housing problem in accordance with our lifestyle. Despite being an affluent society, Hong Kong still has great problems in housing when it comes to the four essential areas of living, that is, clothing, food, accommodation and transport. For many people, if only their housing problem is solved, they will live a much better life. Therefore, the housing policy should be the core policy among all government policies.

I have served in the Housing Authority for many years and I think that Hong Kong has in fact a very good public housing policy. Starting from the times of the former governor, Sir Murray MacLEHOSE, the low-income group was first provided with low-cost housing, then the Home Ownership Scheme (HOS) was launched and the people were encouraged to buy subsidized residential units. This policy has the practical effect of making those poor families free of worries about the housing problem. In this way, their children can receive education in stable circumstances and after they have graduated from university, they can find a good job and build up the means to move to a better home. They can then vacate their public rental housing (PRH) units to those in need. So this public housing policy is not just a social ladder that will encourage people to move upwards, but it is also a policy that can help reduce social problems.

However, what we face now is the problem of an imbalance in supply and demand. To solve this problem, the most important key lies in realizing what

the crux of the problem. When people say that the supply of land should be increased in order to produce more housing units, then the Government suggests developing more land, undertake reclamation from the sea and making use of rock caverns, and so on, in order to increase the supply of land. But the problem is, a proposal on reclamation is often opposed by the conservationists and a proposal on building PRH estates in the urban areas is also opposed by the residents of the districts in question. I think this kind of knot must be untied some day.

As a matter of fact, the right approach to handling the problem is to think from another perspective. Hong Kong is a city of high-density development. We cannot forego this unique feature of ours. It is like a saying which goes like this: Don't throw away the baby when you throw out the bath water. The unique thing about the city of Hong Kong is that only 20% of its land is developed at a high density. If a large amount of land is to be developed, it is like foregoing the uniqueness of this city. So should we not try to solve the problem with the concept of planning for a high-density city? Put simply, if we can undertake planning afresh for lands in the New Territories and change it to planning for a high-density city, then change the plot ratio applicable to the New Territories from the current ratio which ranges from 0.2 to 0.4 revise to three or five times, while not raising the ratio to eight to 10 times like that for the urban areas, then it will be good enough to release a lot of floor area for housing construction and that will certainly increase housing supply by a great margin.

So the problem we have to solve not entirely lies in the supply of land. Rather, we have to work at the design and planning for a high-density city. As a matter of fact, the design for a high-density city as practised in Hong Kong has won international acclaim and if we wish to do better, we should undertake a comprehensive study on that to see how it can be done better.

President, the design for housing in a high-density society should have the following five characteristics: identity, community and privacy, segregation, defensible space and the environment. These five characteristics are very important. In my opinion, Hong Kong as a high-density city should refer to these five characteristics as its model for planning.

Identity means that in a high-density development the buildings are packed like matchboxes and when all the units are similar, there will be a lack of

character. Therefore, we should try to do something so that these matchbox homes can retain some unique character of their own.

The idea of community and privacy from Christopher ALEXANDER aims at taking account of social network and such ties while keeping the privacy of people intact. This idea has been expounded with great clarity in Jane JACOBS' classic *The Death and Life of Great American Cities* and that is, it is very important to take into account community and neighbourhood ties in planning housing development in cities.

Segregation means putting in place safety facilities to separate people and traffic. But we notice that in Hong Kong, there is quite a vibrant street life going on in places like Shanghai Street and some places in Wan Chai in the past. This kind of street life can cement community ties and hence should be retained.

The concept of defensible space by Oscar NEWMAN is to pay attention to the prevention of crime and monitoring neighbourhood security and such like issues when designing a city with intensive housing developments.

Lastly, the idea of the environment which we often talk about these days is meant to make the design congruous with the environment and to make good use of green ideas like sunlight and ventilation.

I can see that many Members of this Council have put forward many ideas regarding quantity, that is, on the volume of housing production. As an architect, I feel that I have to point out the importance of quality. Even if PRH is no-frills in nature, there should be good urban planning and housing design to go with it in order to make the overall housing conditions better.

Of course, as pointed out by many Honourable colleagues, we must do a good job in demographic analysis and find out what kind of housing is needed by people living in different districts and belonging to different social classes. We should also find out what is the projected volume of housing production and the matching facilities required. Only by doing so can we achieve what is proposed in the motion and that is, reduce the waiting time for applicants on the Waiting List from three years to two years.

As for other aspects, we can build more rental units in the form of hostels for short-term lease for application by single persons and those belonging to the

sandwich class. This can alleviate the rental burden on them. Besides, the design of housing for the elderly and residential care homes for the elderly should also be improved as a complementary measure.

More importantly, I believe, there must be good timing so that a great gap will not arise in timing in the completion of the housing units and the matching community facilities nearby. Such a problem of mismatch was found in Tuen Mun previously and Tin Shui Wai now.

Lastly, a sustainable housing policy must include a continuous and steady supply of land for the fact that it is vital to a balance in housing supply.

Thank you, President.

**DR JOSEPH LEE** (in Cantonese): President, we are discussing the topic of perfecting Hong Kong's housing policy today. I would think that in this regard, the Government is duty-bound to ensure that every person in Hong Kong have a roof over them. But what can be regarded as "having a roof over them"? Does the Government have the obligation to use public money to finance each person so that he or she can be allocated a flat or be able to buy a home? Actually, this is quite another matter. Before I talk about this motion topic, I wish to talk about the public housing policy.

The Secretary said yesterday that the main idea about a public housing policy is to help people from the disadvantaged groups to have "a roof over them" and that they can have a dwelling place by paying a reasonable amount of rent. There are views that there should be a massive production of PRH units. I have reservations about this idea. According to the current figures, the waiting time in general for applicants to be allocated a PRH unit is two years; and for elderly applicants, the average waiting time is 1.1 years. Is this waiting time good enough or fast enough? Of course, different people may have different views on that and according to the experience of the Government, if a waiting time of three years is considered as the norm, then it is fast enough. But that is not really important. A more important point is how many PRH units should be produced according to this waiting time.

The Government has not provided us with any figures on how many people now are eligible for allocation of a PRH unit and how many people will need to

be allocated PRH units in the future. But we should note that these figures form the basis for calculation of the number of PRH units to be produced. The authorities simply cannot use public funds to produce PRH units non-stop. What are the arrangements regarding these PRH units and will the eligibility criteria be lowered when there are more of these PRH units available and so more people can live in these PRH units? When more public money is used on this, are we sure that these people really need public housing? There is ambiguity in the government policy with regard to these issues.

So the Government must provide the relevant figures when it wants to produce more PRH units. This will enable the people to know how many PRH units will be built in future and why should such a large amount be produced. Also, it should be made clear whether or not the waiting time can be shortened and how much time will be saved, whether the waiting time now is reasonable or not and whether the present criteria should come under a review. This is the first point.

The second point is that there seems to be a problem with the turnover of PRH units now. As evident in the figures available, there are about some 23 000 of these so-called well-off tenants in public housing estates. Why should we continue to use public money to subsidize these well-off tenants? There is an argument that they are paying rents at market value. But if they have the means to pay market rents, why should they not move out and rent properties in the private sector? We know, of course, that rents in the private sector are very high. With the introduction of new initiatives in housing such as the new HOS, sandwich class housing or other subsidized residential units, these can add to the housing supply and it is hoped that these well-off tenants in PRH units can move out. It does not matter if they will buy a home or move to another place to live, for the result is that more people can move into these vacated PRH units.

In my opinion, these well-off tenants are *de facto* abusing public housing resources and they are occupying PRH units and preventing other people from moving in. So we should look into this issue carefully before building more PRH units. We should examine whether or not the Government should enhance its efforts in this respect and think about how these well-off tenants should be suitably dealt with. We also know that there are cases of abuse with regard to public housing such as posting advertisements on the Internet to let a PRH unit, and so on. The Government should eliminate this sort of practices by taking

enforcement action, so as to ensure that public housing resources are well used and that public money will not be wasted to help people who do not need it. This is what I think the Government can do with respect to public housing.

In addition, in respect of the rental private property market, there is one thing which the Government has done very badly. It is making changes to rent control. I remember I said many times on various occasions that amending the rent control legislation would only favour the landlords instead of protecting the tenants. This is very undesirable. This is especially true when we can see that with the soaring property prices and rentals now, some middle-class families or families from the middle class with a lower income will really find that they could be deprived of a home at any time. This is because the rent control legislation has been amended and they can be asked to move out after one year. So where can they go? I have relaying this point to the Government many times but, unfortunately, the Government simply just would not heed me. I only hope that the Government can look into this issue and see if the rent control legislation should be reviewed so that both the tenants and landlords can be protected. I believe this is an important point.

About the situation regarding leasing properties, we cannot help but talk about the problem of "sub-divided units". Ms Starry LEE has said earlier that there are 110 000 people who belong to the middle class with a lower income. I do not think anyone will like to live in one of these "sub-divided units" and they must have a reason for doing so. Maybe they think that the location is more convenient and so they will pay \$2,000 to \$3,000 to rent one of these substandard places so that they can find it more convenient to go to work. This is because they find it inconvenient to move to a public housing estate in a remote place. This is what they think.

Since there is no way the Government can help this group of people at this juncture, then it should not impose any control across the board or outlaw such "sub-divided units". Actually, as an interim measure, the Government should at least exercise proper regulation so that these "sub-divided units" can be fit for accommodation for the time being and that facilities like fire service should be able to meet the requirements. In this way, these people can be given an option. This is a suitable approach for the Government to deal with "sub-divided units".

With respect to private properties, I am sure Members will say that these belong to the private sector market. However, we can see that in many of these private properties and even those units with a limited floor area, they are turned into luxury units by the real estate developers. These units are beyond the affordability of ordinary members of the public. So what can be done about this situation? We have to see how this problem can be addressed when the new Government commences its term later on. We are not saying that property prices should be curbed or private properties or the private sector market should be brought under control. We only hope that the Government can make it clear to the developers that when they are to launch residential development projects, they have the responsibility to ensure that the flats concerned should be affordable to the general public or those in the middle class, that they can have a flat of their own after paying a reasonable price and that their quality of life is not affected.

Lastly, the Government should consider this question very carefully: should we try to do something to finance people to buy their homes? I have doubts about this. The Chief Executive elect, Mr LEUNG Chun-ying, has said that there is no shortage of land in Hong Kong. This is a really good piece of news. Why? When we are not short of land, it means that property prices will not just rise for no reason. I will just wait and see whether the Chief Executive elect, having assumed office, can really make good use of land available so that property prices can be kept at a stable level and that every person in Hong Kong can have "a roof over them" and they will not be deprived of a home. Thank you, President.

**MR LEE WING-TAT** (in Cantonese): President, the new-term Government will begin its work very soon and I am sure the Secretary should have an opportunity to meet with the Chief Executive elect in the interim. Now I wish to talk about a number of points and I hope the Secretary would agree to them. There are times when the Secretary does not share all my views. But I hope that she can really listen to what I am going to say, so that when she has the opportunity to meet with Mr LEUNG she can convey these views to him.

First, I think that the Government should have a long-term strategy on housing. In fact, a strategy used to exist before and that included projections on population growth, demand for residential units and land supply. When the

Government has devised the relevant planning strategy, and irrespective of whether we are talking about a rolling schedule of five years or seven years, the Government will have a better grasp of the situation.

The second is the land issue. Recently, considerable improvement seems to have been made by the Government. The supply of land is relatively stable. I hope that the Government can learn the lesson and it must try to avoid what happened before, and that was in 2002 and 2003 when land supply was suddenly stopped within an economic cycle and some well-established practices like land sales were suddenly stopped. I hope that the Government can have a steady and continuous practice in land supply.

The third point is that as society develops, we have gradually shortened the waiting time for allocation of PRH. We can note from the election platforms of the candidates for the Chief Executive Election that both Mr Henry TANG and Mr Albert HO have said that the waiting time would be reduced to two years and in contrast, Mr LEUNG Chun-ying has not mentioned this point. I hope the Secretary can convey our concern to him and since Mr LEUNG cares so much about the housing problem in Hong Kong, the new Government should make a new pledge of reducing the waiting time to two years. In view of this, the volume of the PRH production may have to be increased. As to how many more units should be increased, I think we have to work that out.

The fourth point is about the HOS. The Government has announced that the production of HOS units will be resumed and that 25 000 HOS units will be produced in the first year. Two days ago I suggested in the Panel on Housing that if we could compress the work in planning and initial works, there might be a chance that more than 25 000 HOS units can be completed in the first year, that is, in the year 2016-2017. I am sure the Secretary knows that the number of HOS units available now is extremely small and once applications are open, there will be more persons who are unhappy than those who are happy. It is because in tens of thousand applications, only some 2 000 to 3 000 will be successful. As many as 30 000 to 40 000 applications will not be successful. I hope that the Secretary can reflect this situation to the new Government, that if we can improve the relevant work further, can the volume of production be increased right from the first year? Besides, now only six lots of land for that purpose are identified and if some kind of sustained planning can be made in HOS construction, particularly giving the Transport and Housing Bureau larger lots through the

Development Bureau, then the number of HOS units produced should not be made to stay at a level of 5 000 units. I believe so long as we make the right projections and careful estimates, and provided that the demand is large enough, the amount of supply may be as many as 6 000 to 7 000 units. The number can be adjusted in the light of changes in the property market. This is my view on the HOS.

The fifth point is on the living area for the people of Hong Kong. This issue may not fall entirely within the portfolio of the Secretary, but I have put forward this idea in a number of motion debates in this Council. I joined the Legislative Council in 1991 and at that time the average living area for a family in Hong Kong was about 450 sq ft. Although I do not have the latest figure on that, I am sure it will not be more than 550 sq ft now. In 1991, the situation in Singapore was more or less similar to that in Hong Kong and it had an average living area of some 500 sq ft. But now in Singapore, an average family has a living area of some 600 sq ft to 700 sq ft and it is even 1 000 sq ft for some families. If we are only talking about the number of residential units without looking at the area of the units, it would not be comprehensive enough. So the new Government should set some goals and these goals should be on the living area to be achieved after some time. And irrespective of whether we are talking about public housing or the private residential market, provided that it is within the limits of affordability, we should have a larger accommodation. If after 10 years we still boast to the world that we are one of the 10 places in the world with the highest income, but the children from our middle-class families — we are not talking about families with a lot of children but most families only have two — have all to pack into a room and do not have a room of their own to engage in activities like accessing the Internet, changing clothes, and so on, then I do not think this is something we can be proud of. It would be extremely disappointing when nothing has changed after 30 years.

Another thing is about the housing issue for the elderly. Some time ago the Housing Society launched some luxurious housing units for the wealthy elderly and this attracted a lot of criticisms. I think that the views which some people responsible for housing for the elderly and elderly services have put forward to me are very reasonable. They say that Hong Kong does not have any comprehensive policy on housing for the elderly. The meaning of a comprehensive policy is that we should not think that the provision of housing for the elderly singletons or the elderly couples will solve the problem of housing for

the elderly. Or that the problem can be solved when an elderly person can apply for PRH together with a young person and in so doing shorten the waiting time. What the authorities should do is to take into account factors like housing, healthcare and retirement life of the elderly and even in other areas of care and attention services. An inter-departmental approach should be taken to co-ordinate the relevant efforts. In view of the fact that in 10 to 20 years from now, the number of people above the age of 60 in Hong Kong will have increased drastically, we should have a comprehensive solution to the housing problem and we should not just look at the issue of elderly housing in isolation.

President, we will have to wait and see whether or not the new Government will be able to solve the housing problem in a bold and innovative manner as Mr LEUNG Chun-ying has said. But I will never underestimate the kind of resistance put up by the developers and the power of the real estate hegemony in Hong Kong. I hope that when the Secretary meets with Mr LEUNG, she can convey my views. And I also hope that the new Government can adopt a people-oriented approach and rectify the blunders and mistakes which in my opinion have characterized the housing policy for more than a decade. Thank you, President.

**MR WONG YUK-MAN** (in Cantonese): President, ever since 25 March, irrespective of whether it is in the SAR Government or the Legislative Council, whenever people discuss public policy, they would not know what to focus on. It is because the Government has become a lame duck. Now the Secretary is sitting here and even if a reply is given, what in fact can a reply like this would lead to? She cannot make any pledges, can she? So any discussion will be a waste of time.

However, we would support the original motion and the amendments. This is because what is being said is a simple and obvious truth, something we have always been fighting for. So there is no reason for us to oppose them. Having said that, I will still make use of the opportunity to talk on the issue.

In 1997, the TUNG Chee-hwa Administration announced the goal of producing 85 000 residential units every year and before the policy was introduced, came the financial turmoil and property prices in Hong Kong just plummeted. For the five years since then, private properties in Hong Kong

depreciated by 70% and many members of the middle class began to hold negative equity assets. The market was sagging and bleak. In 2003, Hong Kong was hit by SARS and that was adding more pain and suffering to the people. So all along this housing production target of 85 000 units has been seen as a terrible nightmare.

In June 2000, in an interview by a reporter from a TV station, TUNG Chee-hwa was asked whether the housing production target of 85 000 per annum would be revised. His reply came as a great shock because he said that no mention had ever been made of the 85 000 target since 1998 and this implied that it no longer existed.

So in this way the kind of philosophy of governance held by TUNG Chee-hwa was like the time of the Great Leap Forward. His policy of 85 000 units a year was dumped and it came as a detachment from the reality, the cause of the demise of the property market, the dire distress among the people and the slackened and busted economy of Hong Kong. This is a cause of common complaint and the subject of public censure.

Just who was the initiator for the 85 000 units policy? LEUNG Chun-ying was the number one person in TUNG's think tank and he has been accused of being related to the 85 000 units fiasco, the invisible hand behind it. But every time when he is asked about this, he would shift the blame to the previous administration, saying that the housing production target of 85 000 units was proposed in the long-term housing policy of the Chris PATTEN Administration before 1997. And after the reunification, the SAR Government only followed the housing policy existing at that time. For the five years since the 85 000 units policy was put in place, the Government was shown to have reacted insensitively as property prices dropped by more than 70% and those owners of negative equity assets found themselves in great distress. Did LEUNG Chun-ying who was the convenor of the Executive Council not have to engage in any profound reflections on the matter? This shows that he is callous to criticisms.

Then the Government rolled out a number of measures like the so-called "SUEN's nine strokes", and one of such measures included the announcement that the HOS would be shelved indefinitely. As early as on 5 September 2001, that is, 11 years ago, I published a Chinese article entitled to the effect of "Frequent

Changes in Government Policies" in which it was pointed out that the property market was not to be rescued by stopping the production of HOS flats or simply cancelling the scheme itself. There would be a lot of negative impacts if that was put into practice. Unfortunately, my prediction came true later. I wish to quote parts of that article now. I quote: "Now the SAR Government has to do something to save the sagging property market by suspending the sale of HOS flats. Of course, the developers would welcome it. But they would still hope that the production of HOS flats would be stopped altogether. Chief Secretary for Administration Donald TSANG was like slamming resoundingly on the face of CHENG Hon-kwan, the Chairman of the HA. A month ago CHENG Hon-kwan spoke against the idea of stopping the production of HOS flats at the meeting on the HA with such a force of justice. Now he has to issue a statement in support of the decision made by the Government. How embarrassing this is. The fact that the housing production target of 85 000 units a year as set by TUNG Chee-hwa has gone busted is proof again that the housing policies of the Government are very confused. It cannot be regarded as wrong in consideration of the policy adjustment made in the light of the prevailing situation. But it must be noted that the HOS market and the private property market just overlap and any imbalance in demand and supply will land the already weak property market in greater woes. It would be alright to make swift changes to a policy which is proven wrong. But while it is alright to suspend the sale or reduce the production of HOS flats, it is certainly not right to suspend the production of HOS flats or even cancel the HOS itself. Because once the property market recovers, there would still be a demand for HOS flats. The housing policy as practised by the Government should be concentrated on the production of PRH flats and reducing the waiting time for applicants to be allocated such flats. As for the private sector market, it should be left to function on its own. The decline in the property market is related to recession as well as consumer confidence. Even if the public has got the savings, people will not make a rash decision of home ownership. This is common sense. The effectiveness of the suspension of the sale of HOS flats by 10 months and introduction of other matching measures in stabilizing the property market would still have to be seen. So the claim of the Government propping up the market is not true. As to the question of whether or not the Government is pressurized by the developers to agree to this move, TUNG Chee-hwa himself knows best." (End of quote)

Now, after more than a decade, property prices in Hong Kong are still hitting new highs. The 85 000 units target is a taboo to LEUNG Chun-ying and

he has changed his previous stand of shifting the blame to the former administrations. Now he is saying that the 85 000 units target is backed up by solid data. It was only because of the financial turmoil that property prices just dropped. In that way he was trying to vindicate for the 85 000 units fiasco. This fellow really thinks with his bottom and he keeps on changing like a chameleon. In a bid to please the developers and their hegemony, he has revised his platform and his policies just shrank smaller in scale and dwindled in number. Can Members see that? In order to deceive the public and gain its support, the first draft of his platform presented a number of views which were quite acceptable. But what happens now? Since the FTU has given its unreserved support to him, can you see anything in his platform on labour policies? Mr WONG Kwok-kin, this fellow sounds as if he is invincible and you should see how he trips and topples and lands himself in a terrible disaster. After he has revised the first draft of his housing policy, there are two areas where we can see a great shrink in size and scale. First, at first he spoke in favour of promoting a policy of Hong Kong properties for Hong Kong people and that was not liked by the business sector. It was supposed to stipulate in the terms and conditions of land sale that the units produced could only be sold to the citizens of Hong Kong. Then he changed his mind and said that he would have to study that idea and now he has imposed certain restrictions on this in the final version of his platform.

Second, he once said that 35 000 PRH units would be produced every year. Then the number was greatly trimmed and downsized. This draft speech of mine is quite long and I may use a lot of time reading it out. But since I have written it, Members may as well hear what it is about.

There is still one minute left. I wish to say that the sun will rise in the West if we think LEUNG Chun-ying can be trusted. I tell you, when Hong Kong communists rule Hong Kong, it will certainly spell disaster for Hong Kong. This person seems to be very eloquent in speech and it seems that he can talk nicely and fancifully about everything. But when he assumes office, it will be a disaster. Just on what basis can he say that a zero quota will be imposed on the admission of Mainland pregnant women by the private hospitals in Hong Kong? Just on what basis can he say that children born of these women do not have the right of abode in Hong Kong? This is just tall talk. I tell you, we should wait and see how the DAB and the FTU take this great blame together with him and be responsible for the fiasco. I will just wait and see when this will happen. I tell you, LEUNG Chun-ying is not to be trusted. So his housing policy will

certainly lead to a catastrophe. We are discussing the housing policy today and although Honourable colleagues are well-intentioned (*The buzzer sounded*), unfortunately we have a Chief Executive who is a Hong Kong communist. That certainly spells calamity. Maybe some time in the future the landowners will be purged. Who knows?

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

**MR WONG YUK-MAN** (in Cantonese): President, I am not talking about the hegemony of the developers, but the purge of the land owners. This is because he is a communist. This is all I want to say.

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

**MR JEFFREY LAM** (in Cantonese): President, at this time when the property markets in the major countries in Europe and North America are in decline and property prices on the Mainland are dropping, the property prices in Hong Kong are soaring against this international trend. The rebound in property prices after the Chinese New Year is particularly forceful and there has been a rise for seven weeks in a row. In Tai Koo Shing where the buildings are 40 years old, the average price per square foot is as high as \$11,000.

President, the greatest problem before us now is that the income and savings of the average office worker in Hong Kong have trailed greatly behind property prices. The high property prices have become the major source of grievance of the people.

There are estimates which point out that the rise in property prices over the past seven years has been more than 90% and the rise in rentals of residential units has been more than 30%, and the surge in rentals for shops has been more than 40%. In the meantime, the mean household income has increased only by about 30%, far behind the growth in property prices. The result is that the people are finding it difficult to afford the high rents and the exorbitant property prices.

This persistent high level of property prices has the greatest impact on the middle class. This is because members of the middle class are not eligible for the welfare benefits enjoyed by the grassroots, nor can they apply for PRH units. They do not have the means to buy a home either. Unable to buy their first home, they are caught in a dilemma of being unable to buy a home while they are also not eligible to apply for public housing.

According to the definition by the Census and Statistics Department, households with a monthly income of \$10,000 to \$40,000 are classified as belonging to the middle class. Based on this definition, half of the households in Hong Kong are middle-class. They have received higher education but it is difficult for them to seek any improvement in the quality of work and income. No wonder the young people complain that they are not rewarded after making enormous efforts to upgrade themselves and work hard. They are discontented.

Recently, a survey conducted by an organization shows that there are signs of more middle-class families seeking emotional support. For these families, the two greatest sources of expenditure are the education of their children and home purchase. When added to the problem of inflation, some people describe themselves as the middle-class poor. That is to say, they have a middle-class income but they are leading a frugal life like the grassroots. Therefore, the housing problem has become the root of discontents held by the middle-class people against the Government.

Now rents are constantly on the rise and the low-income people are also seriously affected. Some of them have to live in cubicles, "sub-divided units" or even those so-called "coffin-sized rooms". The living conditions are deplorable and the fire service facilities inadequate. What is even more of an oddity is that in some of these places, the rent per square foot is even higher than that of luxury apartments. So the pressure of life exerted on the grassroots is really mounting.

All this shows that the various measures introduced by the Government in the past year to arrest the rise in property prices have failed. The other cause of the problem is the imbalance in supply and demand. Last year over 11 000 units are occupied and that is a great rise by 42% over the previous year. It shows that there is a robust demand for flats. But there has been only a small rise in supply. Last year, only some 9 400 units were completed and that was a substantial fall by 30%. There is a rise again this year by about 25% to 11 900

units and this is expected to increase by another 25% to 15 000 units next year. But the figures are still short of an annual increase of 20 000 units required for an equilibrium. From this it can be seen that the disruption in supply as a result of the housing policy has caused very serious consequences.

During the past few years, the various political parties and groupings in this Council have urged the Government on many occasions to resume the production of HOS flats and last year Chief Executive Donald TSANG announced in his last policy address plans to roll out many measures to help the middle-class people in home ownership, such as the My Home Purchase Plan (MHPP) and the new HOS. All of these are meant to increase supply in the market. However, distant water cannot put out a fire nearly. For the MHPP and the new HOS, the flats will be completed the soonest by 2014 and 2016 respectively, and the numbers are limited too. Therefore, these housing initiatives which have come belatedly would leave those low-income people and middle-class people who have not bought a home continue to bear the high rents.

President, the Government has always tried to explain away its inability to solve the housing problem by saying that land is scarce in Hong Kong while the population is huge. But is it true that there is no land in supply in Hong Kong? Is there no way to solve the housing problem completely? We urge the Government to formulate a land supply policy which can cope with the housing needs in Hong Kong, such that land can be supplied according to the volume of housing needs worked out from the reviews conducted year on year. In this way, forecasts on housing land needs are made for a period of a number of years in future. Only in this way can the market be stabilized.

The Government has invited the Urban Renewal Authority (URA) to undertake redevelopment projects for factory buildings. The aims of these projects are to revitalize these factory buildings as well as releasing more land for commercial or residential developments. We hope that as the Government works out the details of these projects, it can accept our recommendations and offer concessions in premium payment for conversion of factory buildings into residential buildings. This is because if the premium payable is low, the new buildings can be sold at a lower price. In addition, after the URA has acquired the land concerned, the Government can add in certain terms and conditions so that some of the units to be completed will include a certain number of flats with limited floor area. In this way, buildings are constructed to meet the needs of

the ordinary people and new buildings can be prevented from becoming all luxurious developments.

President, we also hope that the Government can resume land sales on a regular basis in order to stabilize the property market. The land sale policy should be taken forward in a dual-track manner, that is, the Government should not just depend on the Application System but it should take the initiative to sell land on a regular basis. This will speed up land development and building construction, including the production of more PRH and HOS units.

The housing policy in Hong Kong now lacks long-term planning and apart from the housing problem faced by the people, there is also the problem of exorbitant rents of commercial office buildings. The Grade A office buildings in particular are in serious shortage and their rents are too high. Thus companies are finding the rents hard to bear. This also undermines our competitiveness. We therefore suggest that the Government should take positive steps to identify more land and increase the supply of Grade A office buildings.

President, I so submit.

**MR FRED LI** (in Cantonese): President, Secretary, I only wish to point out that from my six years' experience as a member of the Housing Authority (HA) and my contacts in the districts, the public housing flats currently built by the HA tend to be for one-, two- or three-person households, and many new housing estates are dominated by small units. Where does the problem lie? I have received many cases involving four-, five- and even six-person households which have not been allocated public housing even once in three years. Why? It is because the number of flats suitable for these households, which has to rely on the supply of refurnished flats, is inadequate. Even if an average of 15 000 new flats are built per annum, only a very small number of these flats will be allocated to large households. Households with four or five members or even three generations are virtually subject to discrimination because larger flats cannot be found to accommodate them. With the absence of new flats of this size, the inadequate number of large flats, and the unavailability of flats with two or three rooms in an entire housing estate, the waiting time for allocation of these flats has virtually become even longer.

Therefore, we have to amend Mr WONG Kwok-kin's motion, and I do not think Mr WONG will object to this. Why should four- or five-person households be subject to discrimination and wait one or two more years? I have received too many such cases. Even when I met with Mr CHIU Kin-chee, Assistant Director of the Housing Department (HD), I had to tell him with great reluctance that these households had to wait for a longer period if many such flats could not be found, or else they would have to live in housing estates in Tin Shui Wai or other remote areas. Applicants waiting for urban flats can only wait for refurnished flats. In other words, they have to wait for some people to move out and the flats thus vacated are refurnished and re-allocated to them.

One of the cases handled by me involves an eight-person household which has not been allocated a flat even once over the past four-odd years. Why? It is conceivable that this household will only be allocated a single unit rather than two adjoining units. But where can such a large unit be found? The HA can only look for such units in old housing estates built 30 or 40 years ago. Even though large and extra large units can be found there, the waiting period is very long. This is why I have to voice out and reflect views for these people.

While the demand for "non-elderly one-person flats" has often been discussed in this Council, no one has ever voiced out for people who need four-, five- or six-person flats. Through the proposed amendments to Mr WONG's motion this time around, I hope the Government can see that not only should more public housing units be built, it should also build units suitable for various categories of people in an even manner. I had once written an enquiry letter to the HD and I was told that there were no statistics and analyses of the average waiting time for four-person households, and only the total number of "non-elderly one-person flats" was available — which means that separate statistics are kept for elderly and non-elderly applicants. But still, I wish to ask: How long is the waiting time for four-, five- and six-person households? The reply I got is that there are no such figures since no statistics have been kept. In response to the question about the number of such flats for allocation, the reply is that the number varies from day to day, and so no reply can be given.

The HD is actually evading my question. How can I be convinced? The problem is that there is a gap. With regard to this gap in the supply of public housing, I would like to sincerely point out here that the supply of large units is inadequate. Insofar as the waiting time for PRH flats is concerned, larger

households do not necessarily have a chance to be allocated PRH flats in three years, not to mention waiting for only two or three years.

I so submit.

**MR RONNY TONG** (in Cantonese): President, while the philosophy of living in peace and working with contentment is deeply rooted among Chinese people, clothing, food, housing, transportation are also the four major aspirations of human beings. Hence, the lives of Hong Kong people in general also revolve around finding a place to live. Is this wishful thinking or is Hong Kong different from other societies? I think that this is understandable.

President, Hong Kong's circumstances are unique in that land and property prices are indeed exceedingly high and consequently rents are very high, too. According to a 2011 survey published by the Census and Statistics Department, compared to the past decade, housing and rental expenses of the public have increased by nearly 41.5% from \$5,300 in 2001 to \$7,500, due to the significant rise in private property prices. If a comparison is made between these figures and median household income, that is, the percentage between rental expenses and income, we will see an increase from 28% in 2001 to 37% in 2011. President, the figures reveal the worsening conditions of the public's rented accommodation or financial burden. It is indeed not exaggerating to say that they are in dire straits.

(THE PRESIDENT'S DEPUTY, MR FRED LI, took the Chair)

Deputy President, the median rent of public housing has fallen from \$1,300 to \$1,200 over the past decade. No wonder Hong Kong people merely look at public housing as well as the number of people who are allocated public housing and their waiting time. But it is a pity that there is a considerable gap between the Government's public housing policy and the public's expectation. Deputy President, 30% of the total population of Hong Kong is currently living in public housing. According to its long-standing policy as well as in the latest policy address, the Government still maintains that only 15 000 PRH units can be built per annum, or a total of 75 000 PRH units will be built over a five-year period.

Secretary Eva CHENG has even claimed shamelessly that this number of PRH units is already adequate to maintain the three-year waiting time for PRH allocation. Deputy President, even though a new Chief Executive will soon take office, there is still no breakthrough change to this target. According to the public speech delivered by Mr LEUNG Chun-ying, only the production for the first three years will be expedited. To date, we have not yet heard anything about the introduction of a new set of views or policies to alleviate the public's demand for public housing.

Such being the case, Deputy President, if we compare the rate of completing 75 000 units in five years with the figures we have on hand, what conclusion can be drawn? Deputy President, according to the figures I requested the Secretary for Transport and Housing to provide last year, we can see the trend of the additional PRH construction. The ultimate number of waitlisted families in 2011 was 99 000, but it will increase significantly to 139 000 in five years. In other words, the situation will only get increasingly worse. The number of singleton applicants is equally alarming. The ultimate number of such waitlisted applicants in 2011 (last year) was 78 000, but it will soar to 126 000 in five years. Deputy President, the target of three-year waiting time for PRH allocation, so to speak, is going to be unachievable very soon, even if it is not any attempt of deception at the moment.

Deputy President, it is initially projected that the provision of 50 000 additional units in three years will only bring the waiting time back to that for 100 000 households, which is most disappointing to many Hong Kong people. Given such circumstances, Deputy President, no wonder many people have strongly requested the Government to build additional PRH flats. Nevertheless, the Government has constantly emphasized the lack of land, saying there is no way to build additional PRH flats on top of the 75 000 flats to be built in five years. Honestly, the Government's remarks are hardly convincing. Information has revealed that only 23% of the 1 100 sq km of land in Hong Kong has been developed, and only 7% of such land is used for residential purposes. In other words, we still have abundant land with potentials for development to maintain Hong Kong's land market at a more reasonable level.

Having said thus far, Deputy President, I must emphasize that, from the angle of rental value, we believe there is a need to re-examine whether or not rent control should be restored. Members should recall that rent control was

imposed in Hong Kong not long ago (it should be prior to 2003). However, due to the relatively poor market in 2003, and coupled with the existence of many "rogue tenants", an ordinance was passed in this Council at that time to lift rent control. Deputy President, I believe rent control will have a definite impact on the rental market and might temporarily curb the soaring property market and the general public's demands for public housing. Nevertheless, the provision of additional HOS flats will ultimately and inevitably become the only option.

With these remarks, Deputy President, I hope the Administration can address squarely the housing issue and, in particular, consider whether there is a need to immediately re-examine the restoration of rent control. Thank you, Deputy President.

**MR CHIM PUI-CHUNG** (in Cantonese): Deputy President, regarding your wise choice of quitting next year, I wish you good luck first.

Deputy President, regarding today's discussion on land, I have often questioned the SAR Government's land policy over the past seven or eight years. Why? Hong Kong is indeed short of resources. It can be said that except for talent, Hong Kong nearly has nothing. Land is one of the extremely valuable resources in Hong Kong. Hence, the annual land sale should be regarded as a major event as well as the Government's stable source of income. As we all know, insofar as the annual gaming proceeds in Macao are concerned, more than \$100 billion in duty is collected. As for the Hong Kong SAR Government, in addition to the stamp duty collected from some trades and industries, it should have land proceeds ranging from \$50 billion to \$100 billion per annum. In the past seven or eight years, the SAR Government, particularly the Chief Secretary for Administration and the Financial Secretary, has overlooked developments in this respect. Personally, I think this is worth reviewing before everything else.

(THE PRESIDENT resumed the Chair)

The second issue concerns the Application List System. We understand that property developers, both big and small, require a lot of relevant talent and make a lot of painstaking efforts in searching in order to trigger a land lot. The

applicant who triggers a lot has to make the first bid and, in the event that no one makes another bid, take up the lot. Of course, it has nothing to do with the lot anymore should someone else make another bid. I have to sing praises of the relevant applicants because they have worked as major volunteers for the Hong Kong SAR Government and the people in Hong Kong.

I have on several occasions raised this question with the Chief Executive, but I wonder if he is too thrifty or indifferent to these issues. I have once proposed that the Government should give developers who trigger land lots for auction a commission of at least 0.5% or 1% and the developers who win the land lot should also give them a commission at 0.5% to 1%. Of course, if the applicant who triggers a land lot wins the lot, he should do his own accounting. It is relatively fair to do so in modern society. They have done such work and paid for it. There is no reason to ask them to do all this for nothing. Hence, it is worthwhile for the Government to study it from whatever perspectives.

Thirdly, since the implementation of the Individual Visit Scheme (IVS), the business of some trades on the market has undeniably become more robust. What are these trades? They are those engaging in luxury accessories, particularly watches. Hence, we can see that there are currently many such shops, particularly in Causeway Bay, where three or four shops in the same street are operated by the same company. Does the Secretary consider this normal? In fact, it is extremely abnormal.

Though the IVS has given a boost to the development of Hong Kong, only a handful of people and property developers have benefited from it. Property developers will immediately do some calculation and, if considered possible, increase rents to such a level that the tenants will still find it viable. In this respect, I personally do not think that excessive control should be imposed. Nevertheless, we must understand that rent control was enforced in Hong Kong prior to the outbreak of SARS in 2003. In a liberal society, rent control is not necessarily right. Anyhow, society as a whole ..... except for the jewellery trade I mentioned just now, many shops aim at longer-term investment. There is no reason to make these shops face uncertainties upon expiry of tenancy agreements. This will be an alternative way of stifling the overall development of Hong Kong. Hence, the fourth point I would like to raise is that the Government must consider the relevant issues.

Fifthly, the Chief Executive elect has pointed out that developed land in Hong Kong takes up only more than 10% of land in Hong Kong, and more than 80% is still undeveloped. Where can such land be found? He should first present us with the information rather than merely telling us that there is abundant land. Where can such land be found? Is such land not yet ready for development or should a search be conducted? The Government is duty-bound to prepare the information, or it should at least have an idea where such land can be found and how much land is available. Discounting the developed land, what is the overall development of land in the future?

Given the enormous repercussions and voices in the community about the future trend, the Government needs to listen to views. In listening to such views, it should also have the information ready. Except for some luxury flats ..... Members should be aware of some false news recently that the price per square foot of certain developments has even reached \$100,000, but that is a most typical example. We must understand what Hong Kong needs. Besides luxury flats, the Government should also learn from other places to take suitable steps, so that members of the public can have something to hope for and, most importantly, remain hopeful. Of course, we still have hopes.

Hence, the Government's land policy must be handled in a holistic manner. But how should land be supplied with a holistic approach? I have mentioned that, if necessary, relatively large-scale preparations should be made for land reclamation in addition to the land already available in the New Territories. Of course, reclamation requires the support of environmentalists. Anyhow, a responsible government must make proper preparations on all fronts before problems can be resolved.

**MS CYD HO** (in Cantonese): President, exorbitant housing expenses and monopolization by real estate hegemonists in Hong Kong are the major factors leading to the disparity between the rich and the poor. People living in Hong Kong are already in a very miserable situation with the local property developers and the SAR Government limiting the source of land supply. Now they are in an even more miserable situation with the inflow of abundant capital from the Mainland.

In the past, we have criticized the Government for introducing measures to allow someone to become a permanent Hong Kong resident with the purchase of

a property worth more than \$6 million. Eventually, one has to engage in other investment activities in addition to property purchases in order to be eligible for permanent residence in Hong Kong.

Currently, the culture of instant speculation and sales still exists. For instance, a buyer can buy a 33-year-old 500 sq ft flat in an ordinary middle-class housing estate in the South District after reading the relevant information about the flat without having to inspect it. In some cases, a buyer might even have no idea of how to get there — I was told by a taxi driver that he had once driven a Mainland tourist to a housing estate and he was requested to lead the way because the tourist did not know the way. During their conversation, the driver was told that the tourist was going to purchase a flat without doing any research or inspecting the flat. He could immediately pay several million dollars in cash to buy the flat and resell it at the original price plus \$300,000 one or two weeks later.

Given the fact that even a 33-year-old small residential flat can be speculated in this manner, coupled with limited land supply and the sudden increase in housing demands on the market, local people truly have no dwelling place.

When the so-called free market is allowed to operate freely, the Government must be responsible for giving the local residents a helping hand through increasing the supply of public housing. Nevertheless, the Government often says that one third of the people in Hong Kong are PRH tenants and adds that, among so many places in the world, Hong Kong can already be considered remarkable with one third of its population having been taken care of. However, we must bear in mind that, besides these PRH tenants, who account for one third of the population, only half of the remaining two thirds of the population are private property owners, with the mortgages of some of their properties not yet paid off. The remaining people, accounting for one third of the population, are still tenants of private residential flats. Nevertheless, since the relaxation of rent control under the Landlord and Tenant (Consolidation) Ordinance prior to 2004, rents have been surging significantly. Certainly, one of the reasons is the substantial number of urban redevelopment projects. The affected tenants have to find a place somewhere else to live as a result of the acquisition and demolition of many old buildings by the Urban Renewal Authority. Nevertheless, these poverty-stricken residents only manage to find some equally old buildings.

They have merely moved from a building affected by acquisition and demolition to another building and very soon the latter will become another target of acquisition and demolition.

Some residents have to move once a year. Although they are so poor that they do not have any valuables, it is actually extremely tough for them to move so frequently and raise rent payable in advance and deposit equivalent to several months' rent. In fact, according to the findings of surveys conducted by some sociologists, the stress index of house removal is just behind that of losing spouses and is even higher than that of divorce. So, Members can imagine these poverty-stricken residents having to, on the one hand, work overtime for a living and, on the other, move their homes annually or biannually. Given their low affordability, the pressure of looking for accommodation everywhere is indeed extremely heavy.

Furthermore, some residents living in private residential flats are actually CSSA recipients. Members might have the wrong impression that the Social Welfare Department will underwrite the rent payable by CSSA recipients. The fact is that when more than 50% of the CSSA recipients choose to live in private residential buildings, the rent allowance received by them is not enough to rent the "sub-divided units", cubicles or illegal rooftop structures in private buildings. What can they do when they find their rent allowance not enough to meet their rent? They can only tighten their belts and spend less on food and clothing, though they cannot buy clothes frequently in the first place. So, the amount of food they can buy will be affected directly. This is an issue of feeding one's stomach. No wonder the Government is currently required to subsidized food banks to enable these poverty-stricken residents to get some food there.

According to the statistical information provided by the Society for Community Organization on the rate of increase in rent for flats under 40 sq m (or 500 sq ft), it is found that the rent of these small flats has risen by 35% between 1999 and 2009 as well as in 2011, or 64% during the eight years since 2003. While wages cannot have increased at such a rate, this is the difficulty faced by poor families in paying their monthly rent. Hence, rent control should be restored to enable the poor households living in private buildings to really heave a sigh of relief.

As for land supply, the Development Bureau has recently indicated that the Shatin Sewage Treatment Works will be relocated to a rock cavern — its size is twice as large as the Victoria Park — and proposed other development methods. Nevertheless, we have to ask this question: How much land will be allocated from such newly developed land for the construction of public housing? If the newly developed land will still be used for the construction of luxury flats and the inflow of capital from the Mainland will continue to be permitted for instant speculation or property purchases without any inspection, we can still not help the local poverty-stricken households even such a large-scale project is undertaken. Hence, in any discussion on reclamation or development of rock caverns, the Government must tell us how much land will be allocated from such newly developed land for the construction of public housing with a view to eliminating the wealth gap in Hong Kong.

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

(No Member indicated a wish to speak)

**PRESIDENT** (in Cantonese): Mr WONG Kwok-kin, you may now speak on the four amendments. The speaking time limit is five minutes.

**MR WONG KWOK-KIN** (in Cantonese): First of all, President, I have to thank the four Members for proposing amendments to my motion, for their amendments have enriched its content. Next I will put forward my views on the various amendments.

Mr WONG Sing-Chi's amendment has mainly added some specific details to the content of my motion. Examples are providing more large units when additional public housing units are built, relaunching Group B PRH of Hong Kong Housing Society, as mentioned by Mr WONG just now, and so on. I also support his proposal of drawing up a five-year rolling list of land reserve for public and private housing. In fact, similar amendments have also been proposed by Dr Raymond HO and Mr LEE Cheuk-yan to call on the Government to put in place a land supply policy. I will support all these proposals.

As for Ms Miriam LAU's amendment, the major proposals put forward therein include providing a tax allowance for rentals for marginal middle-class people who are unable to purchase their homes and need to rent flats, extending the current entitlement period for deduction for home loan interest, expediting urban renewal, and so on. These proposals are worthy of support as they bear some resemblance to the philosophy of my motion.

President, the only point I wish to make in particular is that Mr LEE Cheuk-yan has proposed in his amendment adding "to reinstate rent control for preventing landlords from increasing rents drastically and terminating tenancy agreements at will". Rent control was lifted by the Government in 2004 because rent control was too stringent at that time. As a result, the basic right of owners was exploited and tenants were even fiercer than owners. The lifting of rent control has, however, brought about a shift from one extreme to another so much so that tenants are now completely unprotected.

In fact, since the exposure of this problem, the FTU has in recent years been calling on the Government to review the Landlord and Tenant (Consolidation) Ordinance to draw up anew equitable tenancy provisions. Unfortunately, our call has been rejected again and again by the Government on the ground that a review is unnecessary. This is why we have decided to support Mr LEE Cheuk-yan's amendment today, though we do not hope to see the previous rent control provisions restored. Instead, we hope to take this opportunity to call on the Government to review the existing Ordinance and formulate fairer and more reasonable tenancy provisions.

President, here I would like to thank Members again for their speeches and hope that Members will support the relevant motion to ameliorate Hong Kong's housing problem. Thank you, President.

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I am grateful to Members for their speeches on the motion and the amendments. We think that many of the views are indeed very constructive and worthy of our thoughts.

In fact, like all the Members, the Government is very much concerned about the housing problem of the people. In my opening remarks earlier on, I

gave an account of the existing housing policies and measures of the Government. I very much agree with Members that in view of the current conditions in the property market, it is necessary to formulate long-term and sustainable housing policies in order to address the problem of people facing difficulties in buying their first home, which is a view expressed in society, and to improve the living environment for low-income earners and families. In this connection, the SAR Government has proposed a package of long-, medium- and short-term measures to respond to the situation. Now I will further explain these measures and respond to the views put forward by Members earlier.

Members have stressed the need to keep a close watch on the private residential property market and introduce initiatives in a timely manner. We have been carrying out work to this end. As the Financial Secretary said some time ago, given that major advanced economies worldwide will continue to adopt an ultra-loose monetary policy over a period of time in future, there has not been any fundamental change in the low interest rate environment. Where a low interest rate prevails, there is a chance for housing market exuberance to emerge again. Therefore, the Government is highly concerned about the risk of a property bubble.

On the other hand, the risks of a downturn in the external economic environment cannot be neglected. In the event of further worsening of the global economy and financial market, the local property market would inevitably be affected. In view of these unusual circumstances, the Financial Secretary has, during the Second Reading debate on the Appropriation Bill 2012, reiterated the determination of the Government to ensure stable development of the property market while continuously taking proven measures to increase the supply of residential units, combat speculative activities, prevent excessive expansion in mortgage lending and ensure transparency of the property market. Appropriate adjustments will be made to the strength of these measures in a timely manner according to market conditions, with a view to ensuring the stable and healthy development of the property market. Besides, the Government will continue to adopt long-, medium- and short-term measures to ensure continuous land supply in order to meet the demand for housing sites. The Government will closely monitor the conditions in the market and maintain a high level of concern over the property market and where necessary, the Government will not hesitate to introduce further measures to prevent the property market from overheating again.

In respect of curbing speculative activities in the property market, since the implementation of the Special Stamp Duty (SSD) in November 2010, short-term speculative activities have dropped significantly. Cases of subsale through confirmor (commonly known as "confirmor cases") stood at a monthly average of 76 cases between December 2010 and February 2012, representing a drop of about 76% as compared to the monthly average of 321 cases in the 12 months before the introduction of the SSD. As mentioned by the Financial Secretary during the Second Reading debate on the Appropriation Bill 2012 last month, the SSD is an effective measure and the Government will continue to implement it while closely watching the development of the property market.

I would like to take this opportunity to remind members of the public once again that buying a property is often a most important investment made in a lifetime. Before making a decision on buying a property, we must be very careful, taking into account our financial capability while staying alert to the various potential risks. Under the current conditions of the property market, members of the public must not blindly think that property prices will only go up and never come down. They must not follow the crowd and buy a property blindly.

Regarding the supply of land, Members generally agreed that a stable and adequate supply of land is vital to maintaining the stability of the property market. The Government has set a target of land supply for the next decade, which is to provide sites for developing an average of about 20 000 private residential flats each year. It is also widely agreed in the community that continuous supply of residential sites is important to stabilizing real estate development. The Government will continue to adopt effective strategies to increase land supply in the coming year.

According to the statistics of the Development Bureau, in the Government's Land Sale Programme for 2012-2013, a total of 47 sites are residential sites that can provide about 13 500 units, and 24 of these sites are new sites. The provision of additional sites for sale has demonstrated the determination of the Government to increase land supply for housing development. It also reflects the achievements made by the Steering Committee on Housing Land Supply led by the Financial Secretary working in concert with various Policy Bureaux and departments over the past year.

To ensure the supply of a certain number of small-to-medium sized flats in the market, the Development Bureau will continue to impose flat size or flat number restrictions on suitable sites in the light of the characteristics of individual sites and market conditions. However, the authorities will exercise great prudence and care in imposing requirements on flat size, in order not to effect excessive intervention in the market. This is because a considerable number of small-to-medium sized flats will be provided in various railway property development and urban redevelopment projects in future. However, the Development Bureau will continue to impose requirements on flat number to ensure the supply of a certain number of residential flats on sites provided by the Government.

On the other hand, the Development Bureau will continue to adopt the practice of announcing land sale programmes in advance on a quarterly basis. In the first quarter of 2012-2013, that is, between April and June 2012, the Government will make arrangements for selling four residential sites by tender. It is estimated that these sites, which are located in Tseung Kwan O, Sha Tin and North Point, will provide about 1 400 residential units. Flat number restrictions will be stipulated for three of the residential sites in Tseung Kwan O and North Point to ensure the supply of the target number of residential flats.

Through the Government's Land Sale Programme, property development projects along the West Rail and those of the MTRCL, redevelopment projects of the Urban Renewal Authority, lease modifications or land exchanges, and private redevelopments not subject to lease modifications or land exchanges, the housing land supply in the coming year will provide around 30 000 private residential flats according to estimation by the Development Bureau.

Stabilizing the property market aside, the Government will continue to take care of the housing needs of low-income earners and families by providing public rental housing (PRH) to low-income people and families who cannot afford private rental accommodation. This has been a long-term undertaking made by the Government. Some Members mentioned earlier that the Government should further increase the supply of PRH to meet the needs of the public for PRH. In fact, as I said in my opening remarks earlier on, in the five-year period from 2011-2012, the production of PRH is estimated to be about 75 000 flats, or an average of about 15 000 per year. This is our target in housing construction.

However, I wish to stress that the annual production of 15 000 new PRH units is not a fixed target. Our target is to maintain the average waiting time for general Waiting List applicants at around three years. We have noticed that the number of applications on the Waiting List has continued to increase, and many people from various sectors of the community have expressed concern about the number of applications on the Waiting List and the waiting time. We will continue to closely monitor the changes in the number of applications on the PRH Waiting List and roll forward the Public Housing Construction Programme on a yearly basis having regard to the public demand for public housing. If necessary, the Housing Authority (HA) will certainly conduct a review to consider how we can adjust the level of PRH production and increase supply, so as to maintain the target of keeping the average waiting time of general waitlisted applicants at about three years.

We will make continuous efforts to maintain close co-ordination with relevant government departments and actively identify suitable sites for PRH development in different districts. We are pleased to consider all the sites, irrespective of their size, in order to optimize the use of land resources and supply sufficient PRH units to meet the public demand for PRH.

I have noticed that Members have called on the Administration to further shorten the target average waiting time for PRH, in order to enable families on the Waiting List to be allocated PRH units as early as possible. I wish to point out that with the existing resources, it is still a challenge to meet the target of maintaining the average waiting time for general waitlisted applicants at around three years. However, we will resolutely abide by our pledge to the community and ensure that the target will be met. To this end, we will continue to closely monitor the changes in the number of applications on the PRH Waiting List and roll forward the Public Housing Construction Programme on a yearly basis having regard to the public demand for PRH. If necessary, the HA will definitely adjust the level of PRH production and increase supply so as to maintain the target of keeping the waiting time at around three years.

Some Members asked earlier whether more support can be provided in respect of PRH allocation or eligibility criteria, in order to make it convenient for and encourage the young generation to take care of and live with their elderly parents. In fact, the HA has been very supportive of the promotion of inter-generational harmony, with a view to creating a harmonious living

environment. To encourage young people to take care of and live with their elderly parents, the HA has introduced a number of priority schemes and housing arrangements for PRH applications to make it convenient for and encourage young family members to live with and take care of their elderly family members. Under the Harmonious Families Priority Scheme, young family members (including singletons) can apply for one PRH unit jointly with their elderly family members in any district of their choice, or they can choose to live separately from their elderly family members by opting for two nearby non-Urban PRH flats. A credit waiting time of six months will be awarded for applications made under both schemes.

Moreover, elderly PRH tenants can apply for transfer to a unit near to their children who are sitting PRH tenants in another District Council district under the Harmonious Families Transfer Scheme. Elderly tenants can also make an application under the Harmonious Families Addition Scheme for adding their eligible adult offspring and their family members to the tenancies of the elderly tenants. Through the Harmonious Families Amalgamation Scheme, elderly tenants can apply for amalgamation with PRH tenancies of their younger families, and the amalgamated household will be offered a PRH flat of suitable size.

These enhancement measures have been extensively well-received since their introduction. As at the end of December 2011, a total of over 20 000 households have benefitted from these schemes. We will continue to implement these measures, accumulate experience and review their operation and effectiveness in due course.

Some Members said earlier that the Government should directly provide a rent subsidy to residents of "sub-divided units", cubicles and bedspace apartments to help them address their housing needs. As I said earlier in my opening speech, we need to work from different angles and in different policy areas in order to provide assistance to low-income earners and families. Collaborative efforts are required in such areas as housing, social welfare and community support services in order to provide suitable assistance to them. People with housing needs who can meet the eligibility criteria can apply for PRH; those with pressing housing needs can consider applying for compassionate rehousing through recommendations by the Social Welfare Department or early allocation of PRH units through the Express Flat Allocation Scheme. As regards financial assistance, the existing Comprehensive Social Security Assistance (CSSA)

Scheme provides a safety net for people who cannot support themselves financially to meet their basic needs, including the provision of a rent allowance for eligible households to meet their expenses on rentals. From the angle of housing policy, we will continue to focus on these people in the provision of public housing.

Moreover, the Community Care Fund (CCF) will continue to review other programme proposals in the light of the experience accumulated and the views put forward by the public and stakeholders, with a view to providing support to disadvantaged groups and grass-roots people in need of assistance. The CCF has launched over 10 assistance programmes to provide support to people with financial difficulties, particularly those who fall outside the social security nets, or those within the safety nets but are not taken care of because of special circumstances. They include the provision of a one-off subsidy for CSSA recipients living in private housing and paying rents that exceed the maximum rent allowance under CSSA and low-income elderly tenants in private housing who are not CSSA recipients.

I understand that the CCF is studying the provision of a one-off subsidy to low-income people in poor living conditions (such as those living in bedspaces, cubicles or temporary housing), in order to alleviate the financial pressure of inflation or rental increase on them. The Steering Committee on Community Care Fund will examine the specific programme proposals later and announce the details as soon as possible after these specific proposals are approved.

Besides, some Members said in their speeches earlier that they would like the authorities to reconsider reviewing afresh the existing Quota and Points System (QPS). We have noticed that there are concerns in the community about the situation of non-elderly one-person PRH applicants. We will give consideration to the housing needs of this type of applicants and how best assistance can be provided to them. We will carefully study the views expressed by Members on the QPS earlier on.

Some Members mentioned that since the new HOS only accepts applications from white form applicants and the first batch of new HOS flats will be completed only in 2016-2017 the earliest, they asked whether the authorities would consider setting aside a certain quota each year before the launch of the new HOS for families eligible for white form application to purchase HOS flats

without premium payment in the HOS Secondary Market, in order to enable more eligible white form applicants to buy their own home early.

The purpose of the HOS Secondary Market is to provide sitting PRH tenants and green form applicants with a channel to achieve home ownership, while more PRH units can hence be vacated for allocation to other people and families in need. In studying the proposal of allowing white form applicants to purchase second-hand HOS flats without premium payment, we need to consider such factors as the need to match supply with demand, the policy objective of the Secondary Market, and so on. We will carefully study the views of Members.

On the implementation details and methods of premium payment under the new HOS, the relevant committee under the HA is in the course of working out the implementation details of the new HOS, including pricing and arrangements for calculation of premium payment, as well as other details, such as the ratio of green forms to white forms, the restrictions on property ownership for white form applicants, and so on. The HA will continue to discuss in detail the implementation details of the new HOS in line with the timetable for the supply of new HOS units.

On the building safety issues relating to "sub-divided units", as I said in my opening remarks, the Development Bureau has taken a range of legislative and enforcement measures which also cover the proposals made by Members of launching a large-scale inspection of and introducing legislative control on "sub-divided units". The Development Bureau and the Buildings Department will continue to carry out work in various aspects in future, while endeavouring to enhance building safety in Hong Kong. I will also convey the views put forward by Members in this respect to the Development Bureau.

President, the SAR Government has introduced a package of practicable measures in the long, medium and short terms. We have also provided the public with housing options at different levels to enable the public to choose housing arrangements suiting their needs in the public housing market or private housing market according to their affordability and housing needs.

We will, just as we have been doing, continue to maintain the stable and healthy development of the private residential property market, and provide PRH to low-income earners and families in need through the HA. We will continue

to listen to the views of various sectors of the community, including the views of Members, in order to carry out our work more effectively to respond to the needs of the people. Thank you, President.

**PRESIDENT** (in Cantonese): Mr WONG Sing-chi, you may now move the amendment to the motion.

**MR WONG SING-CHI** (in Cantonese): President, I move that Mr WONG Kwok-kin's motion be amended.

**Mr WONG Sing-chi moved the following motion: (Translation)**

"To delete "although" after "That," and substitute with "in order to respond to people's aspiration for acquiring their homes,"; to add "but" after "public demand,"; to add ", including the construction of additional four to six-person flats to shorten the waiting time for such family applicants and bring it broadly in line with the waiting time for small family applicants, so as to enable them to be allocated flats within a reasonable timeframe" after "demand for PRH"; to add ", such as increasing the quota to expedite flat allocation and excluding middle-aged one-person applicants from the points system, so that they may wait for PRH allocation like ordinary family applicants" after "housing need"; to add "and study re-launching Group B PRH of Hong Kong Housing Society to address their housing needs;" after "pressure;"; to add ", and allow applicants to select districts in respect of PRH allocation, such as Hong Kong Island, Kowloon, New Territories East, New Territories West or the outlying islands, which can meet applicants' needs and also expedite flat allocation" after "care for them"; to add ", including assisting them in expeditiously applying for PRH and providing reasonable rehousing for residents affected by clearance" after "assist these people"; to add "and resale" after "premium payment"; to delete "and" after "exorbitant rents;"; and to add "; and (j) to draw up a five-year rolling list of land reserve for public and private housing, with a view to ensuring a timely supply of land for public and private housing to meet the community's needs" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr WONG Sing-chi to Mr WONG Kwok-kin's motion, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Ms Miriam LAU, as Mr WONG Sing-chi's amendment has been passed, you may now move your revised amendment.

**MS MIRIAM LAU** (in Cantonese): President, I move that Mr WONG Kwok-kin's motion as amended by Mr WONG Sing-chi be further amended by my revised amendment.

The revised areas in my amendment include: First, I have not retained the original amendment to the introduction of the motion; and second, I have retained (g), (j) and (k) in the original amendment and made some textual changes.

**Ms Miriam LAU moved the following further amendment to the motion as amended by Mr WONG Sing-chi: (Translation)**

"To add "; (k) to provide a tax allowance for rentals for marginal middle-class people who are unable to purchase their homes and need to

rent flats, so as to alleviate their rental burden; (l) as exorbitant property prices have caused an increase in the amount of people's home loans, making their burden of home mortgages increasingly heavy, the Government should consider further extending the current entitlement period for deduction for home loan interest; and (m) to expedite urban renewal and assist in changing the land use of dilapidated factory buildings with higher vacancy rates after premium payment, so as to redevelop them into 'no-frills' small and medium sized flats, including flats with limited floor area for Hong Kong people who are first-time home buyers" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Ms Miriam LAU's amendment to Mr WONG Kwok-kin's motion as amended by Mr WONG Sing-chi be passed.

**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 LEUNG Yiu-chung rose to claim a division.

**PRESIDENT** (in Cantonese): Mr LEUNG Yiu-chung has claimed a division. The division bell will ring for five minutes.

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

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

Functional Constituencies:

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

Mr CHEUNG Kwok-che voted against the amendment.

Geographical Constituencies:

Mr Albert HO, Mr Fred LI, Mr James TO, Mr CHAN Kam-lam, Ms Emily LAU, Mr TAM Yiu-chung, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr CHEUNG Hok-ming, Mr Ronny TONG, Mr KAM Nai-wai, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr WONG Kwok-kin, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man voted for the amendment.

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung and Ms Cyd HO voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, 22 were in favour of the amendment and one against it; while among the Members returned by geographical constituencies through direct elections, 26 were present, 22 were in favour of the amendment

and three against it. Since the question was agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was passed.

**MS MIRIAM LAU** (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion "Perfecting Hong Kong's housing policy" or any amendment thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

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

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Perfecting Hong Kong's housing policy" or any amendments thereto,

this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

**PRESIDENT** (in Cantonese): Dr Raymond HO, as the amendments by Mr WONG Sing-chi and Ms Miriam LAU have been passed, you may now move your revised amendment.

**DR RAYMOND HO** (in Cantonese): I move that Mr WONG Kwok-kin's motion, as amended by Mr WONG Sing-chi and Ms Miriam LAU, be further amended by my revised amendment.

President, the continuous surge of the property market in recent years has to a certain extent shown that land supply in Hong Kong has been inadequate to meet the demand, resulting in ever escalating property prices. To improve the situation, I think the Government definitely has to announce the land required to supply housing units .....

**PRESIDENT** (in Cantonese): Dr HO, you can only explain the revised wording of your amendment.

**DR RAYMOND HO** (in Cantonese): ..... Right, and I am explaining this point. If the land policy is not announced early, property developers or we Members will have no idea of the Government's policy, and the development in many aspects will be far from satisfactory. This is why I have added the words "to expeditiously announce a land supply policy ....." to the amendment. Thank you, President.

**Dr Raymond HO moved the following further amendment to the motion as amended by Mr WONG Sing-chi and Ms Miriam LAU: (Translation)**

"To add "; and (n) to expeditiously announce a land supply policy that meets the housing need in Hong Kong" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Dr Raymond HO's amendment to Mr WONG Kwok-kin's motion as amended by Mr WONG Sing-chi and Ms Miriam LAU be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Mr LEE Cheuk-yan, as the amendments by Mr WONG Sing-chi, Ms Miriam LAU and Dr Raymond HO have been passed, you may now move your revised amendment.

**MR LEE CHEUK-YAN** (in Cantonese): President, I move that Mr WONG Kwok-kin's motion, as amended by Mr WONG Sing-chi, Ms Miriam LAU and Dr Raymond HO, be further amended by my revised amendment.

President, I have only combined one of my two proposed amendments with Mr WONG Sing-chi's proposals and added my original wording (sic) "to maintain a balanced supply and demand in the property market and keep property prices at levels affordable to ordinary people". The other revisions are textual amendments and changes in the paragraph number. Thank you, President.

**Mr LEE Cheuk-yan moved the following further amendment to the motion as amended by Mr WONG Sing-chi, Ms Miriam LAU and Dr Raymond HO:**  
**(Translation)**

"To add "; and (o) to reinstate rent control for preventing landlords from increasing rents drastically and terminating tenancy agreements at will, so as to protect the rights and interests of private housing tenants" immediately before the full stop."

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That Mr LEE Cheuk-yan's amendment to Mr WONG Kwok-kin's motion as amended by Mr WONG Sing-chi, Ms Miriam LAU and Dr Raymond HO be passed.

**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 LEE Cheuk-yan rose to claim a division.

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

(Dr Priscilla LEUNG raised her hand in indication)

**PRESIDENT** (in Cantonese): Dr LEUNG, what is your point?

**DR PRISCILLA LEUNG** (in Cantonese): I wonder if I need to make a declaration. I own a flat which has been rented out. I just wish to make this point.

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

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

Functional Constituencies:

Dr Margaret NG, Mr CHEUNG Man-kwong, Ms LI Fung-ying, Dr Joseph LEE, Mr CHIM Pui-chung, Mr CHEUNG Kwok-che, Mr IP Wai-ming and Dr PAN Pey-chyou voted for the amendment.

Dr Raymond HO, Dr Philip WONG, Mr LAU Wong-fat, Ms Miriam LAU, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr Jeffrey LAM, Mr Andrew LEUNG, Prof Patrick LAU, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr Paul TSE and Dr Samson TAM voted against the amendment.

Mr WONG Yung-kan and Mr IP Kwok-him abstained.

Geographical Constituencies:

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

Dr Priscilla LEUNG voted against the amendment.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE and Mr CHAN Hak-kan abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 23 were present, eight were in favour of the amendment, 13 against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 26 were present, 19 were in favour of the amendment, one against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

**PRESIDENT** (in Cantonese): Mr WONG Kwok-kin, you may now speak in reply. You still have one minute and 39 seconds.

**MR WONG KWOK-KIN** (in Cantonese): President, the meeting has been in progress for two days. Members are tired. Despite the fact that they are so tired, 23 Members have still spoken on this motion. It shows that Members all attach great importance to this topic.

When Members speak in this Council, they are actually speaking for the people. And Members are very practical in that if the topic is not a popular concern, they will not speak on it too much. It shows that insofar as the housing issue and the question of perfecting Hong Kong's housing policy are concerned, the people have a strong voice and they hope that the Government can put in more efforts.

From the speeches made today, I can summarize three points to which I think the Government should pay particular attention. First, the supply of PRH should be increased and this social ladder based on public housing should be put

in place again. Second, the problem of safety and conditions regarding the "sub-divided units" should be dealt with properly. Third, the existing rent control legislation should be given a fresh review in the hope that people living in private residential buildings can be given more protection and we do not hope that the situation will go from one extreme to the other. We should see if our policy in this respect can be maintained at a relatively fair and impartial manner.

Thank you, President.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Mr WONG Kwok-kin, as amended by Mr WONG Sing-chi, Ms Miriam LAU and Dr Raymond HO, be passed.

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

(Members raised their hands)

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

(No hands raised)

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

**PRESIDENT** (in Cantonese): Sixth Member's motion: Vote of no confidence in the Chief Executive.

Members who wish to speak in the debate on the motion will please press the "Request to speak" button.

I now call upon Miss Tanya CHAN to speak and move the motion.

## **VOTE OF NO CONFIDENCE IN THE CHIEF EXECUTIVE**

**MISS TANYA CHAN** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed.

Today, it is with a heavy heart, anger and a sense of urgency that I propose this motion. Heavy-hearted, because the leader of Hong Kong is taking the lead in assailing the most important core values of Hong Kong; angry, because we have a Chief Executive whose remarks and conduct have brought shame on Hong Kong people; urgent, because we no longer believe that Chief Executive Donald TSANG is capable of performing the duties of a Chief Executive properly.

To propose the first ever vote of no confidence in the Chief Executive after the reunification is actually the only option, given the constraints of the existing system in Hong Kong. Although the political accountability system was introduced a decade ago into Hong Kong, the legislature has no power to force accountability officials who have made mistakes in administration, are involved in misconduct or whose credibility is bankrupt to bow and step down. In many democratic countries overseas, it is only necessary for the parliament to pass a motion of no confidence in the government or an official for individual officials and even the entire cabinet to be removed from office. Unfortunately, there is no such system in Hong Kong.

It would have been possible for the Legislative Council to invoke the powers under the Legislative Council (Powers and Privileges) Ordinance to establish a committee of inquiry to look into the incident of acceptance of hospitality from tycoons by the Chief Executive and the suspected acceptance of deferred benefits, then reprimand Chief Executive Donald TSANG according to the results of the investigation. However, unfortunately, when an Honourable colleague moved the relevant motion the other day, it was negated by Members of the pro-establishment camp. Consequently, we could only propose a Member's motion with no binding effect to make a solemn and clear political statement that says we no longer have the confidence that Chief Executive Donald TSANG can continue to serve as the leader of Hong Kong.

In that case, which aspects of Chief Executive Donald TSANG are not worthy of our trust? Earlier on, a number of mass media carried extensive exposés that laid bare the conduct of the Chief Executive to the Hong Kong public. If we want to enumerate the queries about the integrity of the Chief Executive, loads of paper would be needed to put them all down. I believe I need not repeat them to Members here. Instead, I wish to compare the two occasions on which Legislative Council Members moved votes of no confidence in officials after the reunification with the current instance.

In 1999, the Chairman of Sing Tao Group, Ms Sally AW Sian, was arrested by the Independent Commission Against Corruption (ICAC) for alleged exaggeration of the circulation figures of her newspaper in an attempt to mislead advertisers. However, the former Secretary for Justice, Ms Elsie LEUNG, did not institute prosecution against Ms Sally AW Sian on grounds of public interest. On 10 March 1999, Dr Margaret NG moved a vote of no confidence in the former Secretary for Justice, Ms Elsie LEUNG, on the ground that she had not made the decision on whether or not to prosecute Ms Sally AW Sian in a fair manner, thus making it difficult for the public to trust that she could uphold the system of the rule of law in Hong Kong.

In 2003, the former Financial Secretary, Mr Anthony LEUNG, was suspected of having jumped the gun in buying a car before announcing an increase in motor vehicle first registration tax and not having made any declaration when the proposal was discussed in the Executive Council. On 7 May 2003, Dr Margaret NG moved a vote of no confidence in the former Financial Secretary, Mr Anthony LEUNG. Dr NG moved this motion because the conduct of Financial Secretary Anthony LEUNG had eroded public trust in him and even in the whole Government.

These two precedents on moving votes of no confidence in officials occurred because the conduct of the officials in question had caused distrust of the existing system among the public. The conduct of Chief Executive Donald TSANG has obviously caused the public to distrust his ability to uphold the existing system. Not only do they distrust the personal ability of the Chief Executive, they even distrust the existing system of the Government.

First, Chief Executive Donald TSANG granted a licence to the Digital Broadcasting Corporation Hong Kong Limited (DBC) through the Chief

Executive in Council and he also exercised his discretion to permit the former Secretary for Education and Manpower, Prof Arthur LI, to take up the post of the Chairman of the DBC. Subsequently, Chief Executive Donald TSANG also accepted the offer extended by the major shareholder and Director of the DBC, Mr WONG Cho-bau, to let a duplex in Junhaoge, East Pacific Garden, Shenzhen, to him at an ultra low rent. It is very difficult for this move not to arouse the suspicion that the Chief Executive was the recipient of deferred benefits and give the impression that the Chief Executive has used his power for private gains. This move will surely cause distrust among the public of the clean system of the SAR Government.

Moreover, Chief Executive Donald TSANG has also aroused doubts among the public about the system for declaration of interests in the Government and the unfairness of this system has also been highlighted. Be it for civil servants or officials under the political accountability system, there are strict guidelines on the declaration of interests, but there are no clear guidelines on the declaration of interests by the Chief Executive.

Paragraph 3.4 of the Civil Service Code specifies that "Civil servants shall ensure that no actual, perceived or potential conflict of interest shall arise between their official duties and private interests. Where an actual, perceived or potential conflict of interest arises, they shall declare it to their supervisors.".

Paragraph 5.3 of the Code for Officials under the Political Appointment System specifies that "Politically appointed officials shall refrain from handling cases with actual or potential conflict of interest.".

However, what about the Chief Executive? As the head of the SAR Government, he has dealt serious blows to the morale of civil servants. He has brought disgrace on Hong Kong, which is well-known in the international community for the cleanliness and high efficiency of the Civil Service. Chief Executive Donald TSANG has 35 years of experience working in the Civil Service, so he ought to be quite familiar with the stringency of the system for declaration of interests by civil servants, and he also should have the ability to prescribe a stringent system for declaration of interests for himself and accountability officials. However, there is obviously a great deal of difference between the mechanism for declaration of interests for the Chief Executive and that for accountability officials. He claimed that in 2007, a system regulating

the declaration of interests by the Chief Executive had been formulated but when Legislative Council Members and the former Chief Justice of the Court of Final Appeal, Mr Andrew LI, asked for the relevant papers and files, it turned out the response of the Government was that there were no written files and that in the process of formulating the guidelines, there were neither discussions nor deliberations. All this means that whatever the Chief Executive says should be taken as what he means. Can you tell us how we can trust this Chief Executive?

When the Chief Executive was attending a special Chief Executive's Question and Answer Session, he said that he would tender his apology for the great gap between his thinking and public expectation. However, throughout, he never admitted to making any mistake, nor did he admit to having done nothing about the mechanism for the acceptance of hospitality and declaration of interests. In that case, how can the general public trust that Chief Executive Donald TSANG is capable of upholding the system in Hong Kong? Do we still have any reason for opposing this vote of no confidence today?

President, although there are only a little more than two months left in the term of the incumbent Chief Executive, ever since the next Chief Executive was elected, the focus of society has shifted to the Chief Executive elect, as though all the words and conduct of Chief Executive Donald TSANG were history. It seems the passage or otherwise of the motion today is not at all meaningful. In fact, this is not so.

Apart from being a political statement expressing our distrust of Chief Executive Donald TSANG this motion today is also intended to deliver a clear message to the successor of Chief Executive Donald TSANG and his new governing team, that Hong Kong people would by no means condone any conduct of the Chief Executive that compromises his integrity. Moreover, it is necessary for him to uphold the core value of probity and avoid any situation that may lead to a conflict of interests. If there is any problem with the integrity of the Chief Executive or accountability officials, the Legislative Council will not hesitate to move motions on a vote of no confidence to pursue political responsibility for the breach of trust. We really cannot afford any further inroads into Hong Kong's clean image.

In late March this year, the Political and Economic Risk Consultancy Limited issued an investigation report on the Corruption Perceptions Index of 14

regions in Asia. The survey was conducted from November last year to the middle of March this year, during which 1 763 middle-senior expatriate executives working in Asia were interviewed. From 2007 onwards, Hong Kong was among the top three in the Corruption Perceptions Index. However, the latest ranking of Hong Kong this year has fallen to the fifth. In the survey, a score of zero means the cleanest and 10, the most corrupt. Hong Kong's score rose from 1.1 last year to 2.64 and the Corruption Perceptions Index for civil servants rose from about two to 3.21, whereas the score for political leaders surged from two to 4.77. The results show that the serious deterioration in the degree of cleanliness of Hong Kong occurred only within this year. We probably have Mr Donald TSANG to thank for these lamentable results.

What is of even greater concern is that earlier on, the ICAC made a high-profile arrest of the former Chief Secretary for Administration, Mr Rafael HUI and two joint Chairmen of a major property developer. Although the law-enforcement agency has still not instituted any prosecution, I believe the community already has the impression that collusion between the Government and business is no longer hearsay. If we do not seize this opportunity to ensure Hong Kong's cleanliness, there would be many questions surrounding how overseas investors would look at us and whether or not Hong Kong can maintain its competitiveness.

President, Hong Kong is now at an important juncture where the transfer of power between two Governments is taking place. Even the slightest disturbance may lead to a major controversy. Therefore, maintaining a good social environment in Hong Kong and a clean and highly efficient Civil Service is of paramount importance to Hong Kong at present. Of course, that the Independent Review Committee headed by the former Chief Justice of the Court of Final Appeal, Mr Andrew LI, has commenced the work to make recommendations on improving the mechanism for declaration of interests by the Chief Executive and accountability officials is a positive development. However, it is also very important for the legislature to deliver a message of zero-tolerance to people who undermine the clean environment and to reinforce Hong Kong's clean image. For this reason, I hope Members will bear in mind the overall interests of Hong Kong society and support this extremely important motion today.

With these remarks, I beg to move. Thank you, President.

**Miss Tanya CHAN moved the following motion: (Translation)**

"That this Council has no confidence in the Chief Executive, Mr Donald TSANG."

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

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I now give an opening speech on behalf of the Government in opposition to the vote of no confidence in the Chief Executive proposed by Miss Tanya CHAN. Before I state the position of the SAR Government, I wish to respond to the issues raised by Miss Tanya CHAN earlier about the Chief Executive's acceptance of hospitality offered by his friends and his renting of an apartment in Shenzhen as well as the arrangements for interest declarations by the Chief Executive.

The Chief Executive's acceptance of hospitality offered by his friends when he was on vacations overseas and his renting of an apartment in Shenzhen some time ago have aroused widespread public concern. Some people have even questioned the personal conduct of the Chief Executive as well as the existing system for regulation and prevention of conflicts of interest.

In fact, after these incidents, the Chief Executive has given a detailed account of the incidents through various channels, which included attending a radio programme and a special Question and Answer Session of the Legislative Council in person, explaining through press releases and social networking websites, and giving written replies to Members' questions, in order to respond to public concerns and dispel public doubts.

After solemn reflection over the matter, the Chief Executive has admitted that there is a certain gap between the rules that he has all along observed and the expectations of the public, causing disappointment to the public. He has tendered a formal apology to the public and undertaken that he will exercise extra care and be more sensitive to such matters in future.

To further allay public anxieties, the Chief Executive made it clear when attending the special Question and Answer Session of the Legislative Council on 1 March that he would revoke his decision of leasing the apartment in East Pacific Garden, Shenzhen. He would also appoint professionals to talk with the landlord on rescinding the tenancy agreement. He also made it clear that should the enforcement agency conduct an investigation into the matter, he would definitely render his best possible co-operation.

As regards the views and criticisms on the existing arrangements for regulation of interest declaration and prevention of potential conflicts of interest applicable to the Chief Executive, including the extent to which the Prevention of Bribery Ordinance should apply to the Chief Executive and the interest declaration system for the Chief Executive, we believe the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests, which is appointed by the Chief Executive and chaired by the former Chief Justice of the Court of Final Appeal, the Honourable Andrew LI Kwok-nang, will take them into consideration in the review and put forward recommendations. After receiving the report of the Independent Review Committee, the current SAR Government will certainly take follow-up actions and provide support actively, with a view to further improving the system.

This shows that the Chief Executive has already responded to the concerns expressed by the community positively, seriously and responsibly.

In considering the vote of no confidence proposed by Miss Tanya CHAN, we hope that Members can comprehensively review the efforts and achievements made by the Chief Executive and his team on all fronts over the years with a fair and objective attitude, rather than focusing solely on the inadequacies of the handling of the incidents by the Chief Executive and in the existing system.

In fact, since he took office in 2005, the Chief Executive has been leading his team and the SAR Government to promote the social and economic development of Hong Kong and improve the quality of living of the people with wholehearted dedication and effort. Take the areas within the ambit of the Constitutional and Mainland Affairs Bureau as examples:

- (A) In promoting the constitutional development of Hong Kong, we have made important breakthroughs in several areas:

- (1) First, we have succeeded in securing a timetable for universal suffrage. The Standing Committee of the National People's Congress endorsed the Decision in December 2007, specifying that Hong Kong may elect the Chief Executive by universal suffrage in 2017 and may subsequently elect all Members of the Legislative Council by universal suffrage in 2020. This is the most solemn and legally-binding decision made by the State's highest authority.
- (2) Besides, we have successfully manoeuvred the passage of the 2012 constitutional reform package. Under the "one-person-two-votes" arrangement, the over 3.5 million registered voters in the territory will be eligible to cast one vote in both the geographical constituency direct elections and the functional constituency elections of the Legislative Council in September this year. This will significantly increase the democratic elements of the elections.
- (3) Regarding District Councils, in 2011, we reduced the number of appointed seats by one third to 68 for the fourth term District Councils, and public consultation on how the remaining appointed seats should be abolished is in progress. We have also stated our position that the appointment system should be abolished in one go in 2016 to tie in with the democratic development of Hong Kong.

These are the achievements made with the great efforts expended by this Government in promoting the constitutional development of Hong Kong.

(B) In respect of human rights:

- (1) In 2008, we enacted the Race Discrimination Ordinance which was fully brought into operation in July 2009.
- (2) In 2009, we provided subsidies to non-governmental organizations for setting up four support service centres for ethnic minorities to provide enhanced support for the integration of ethnic minorities into society.

- (3) We have comprehensively reviewed the Personal Data (Privacy) Ordinance (PDPO) and introduced a number of amendments to the PDPO to enhance the protection of personal data and privacy and also strengthen the effectiveness of the PDPO and improve its operation.
- (C) In promoting co-operation with the Mainland and Taiwan:
- (1) We have secured the support of the Central Authorities for including in the National 12th Five-Year Plan (FYP) an individual chapter dedicated to the development of Hong Kong and Macao. This elaborates the functions and positioning of the HKSAR in the development of the country, and represents a significant breakthrough in Hong Kong's efforts in complementing the National FYPs.
- (2) In August last year, Mr LI Keqiang, Vice-Premier of the State Council, visited Hong Kong and announced a series of concrete policies and measures formulated by the Central Government under the requirements of the National 12th Five-Year Plan to support Hong Kong in further developing and intensifying its co-operation with the Mainland. There are more than 30 policies and measures covering such areas as economy and trade, finance, society and people's livelihood, tourism and co-operation between Guangdong and Hong Kong. They provide a solid policy framework for the HKSAR's work in implementing the National 12th FYP.
- (3) In respect of Hong Kong-Guangdong co-operation, the Framework Agreement on Hong Kong/Guangdong Co-operation was signed with Guangdong in April 2010 which sets out the positioning of Hong Kong-Guangdong co-operation in the long-term development, with Hong Kong taking the lead in the Pearl River Delta financial centre.
- (4) We have actively participated in the promotion of the development of modern service industries in Qianhai, and complemented the work of the Shenzhen authorities to

encourage Hong Kong enterprises and service suppliers to seize the opportunities to develop service industries in Qianhai, with a view to tapping the Mainland market.

- (5) In respect of regional co-operation in the Mainland, we have recently established a liaison unit in Chongqing and Fujian respectively, in order to step up our co-operation with the Chengdu-Chongqing Economic Zone and the Economic Zone on the West Coast of the Taiwan Strait and to develop new business opportunities for Hong Kong enterprises.
- (6) We have actively supported the reconstruction projects in the Sichuan quake-stricken areas. These projects cover education, healthcare and rehabilitation, social welfare, transport infrastructure, reconstruction of Wolong Nature Reserve, and so on.
- (7) In respect of exchange and co-operation between Hong Kong and Taiwan, we have set up the Co-operation and Promotion Council while the Taiwan authorities have set up the Taiwan-Hong Kong Economic and Cultural Co-operation Council, providing a platform for interaction and exchanges between Hong Kong and Taiwan. Substantive progress has been made in banking supervision, air services arrangement, and so on.

President, the examples cited by me involve only some of the work carried out in areas under the responsibility of the Constitutional and Mainland Bureau. In other policy areas, the Chief Executive has also honoured his electoral pledges and fully implemented his election platform to practically work for Hong Kong to strive for the well-being of the people.

Hong Kong is a free, open and diversified society. We have been listening modestly to the views of and criticisms made by the public, various sectors of the community and the Legislative Council on the administration and policies of the Chief Executive and the SAR Government for the past seven years. We have reflected on ourselves and striven for improvements, in order to make the best use of the situation and progress with the times.

The Chief Executive and all politically appointed officials will certainly handle our existing tasks properly in the remaining two months or so of the current-term Government, and we will actively and positively provide support to the next SAR Government in the arrangements for handover.

With these remarks, President, I hope that Members will oppose the motion proposed by Miss Tanya CHAN.

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

**MR LEE CHEUK-YAN** (in Cantonese): President, will Members please look at the Chamber now, why is there no one over there? Of course, I would not claim that a quorum is not present since they may be evading on purpose. I do not know why they have to shy away. Is it because they think that Donald TSANG does not deserve any help, so they are not going to say anything to help him but they also do not want to attack him? Or is it because of some other reasons? I do not know how their mentality is like, so I hope that later on, they would come back to talk about their thinking because sometimes, it is really difficult to understand the thinking of the royalist camp.

President, today, the Labour Party supports this motion on a vote of no confidence moved by Miss Tanya CHAN. This matter is very clear. The black and white of this matter are all clear-cut and there is no room for sophistry. Section 3 of the Prevention of Bribery Ordinance states clearly that without the consent of the Chief Executive, no advantages can be accepted. However, the provisions of this Ordinance are not applicable to the Chief Executive. If this Ordinance is not applicable to the Chief Executive, does it mean that he can accept advantages at will? Can he do whatever he pleases because he is not regulated by this Ordinance? Chief Secretary for Administration, is that so? Of course, you would reply in the negative. Otherwise, do you mean to say that the Chief Executive can accept advantages? If you say that the Chief Executive should not accept advantages but since he has accepted the hospitality and so many advantages, there is already a mountain of evidence against him.

The several incidents are very clear, so the Chief Executive cannot possibly deny them. First, concerning the large apartment intended for his retirement, he admitted to signing a tenancy agreement, and that the Chairman of DBC, Mr WONG Cho-bau, allowed him to oversee the renovation, that the renovation appeared to be tailor-made for him through and through and that in the end, he only had to pay the rent. Is there any tenancy agreement like this in the world? You can renovate the flat any way you like, then pay the rent at the so-called market rate. The renovation can be ultra luxurious but the rent is just at an ordinary level, so is this not a kind of benefit? Is this not a kind of advantage? This is all very clear. There is a mountain of evidence and Donald TSANG did not make any declaration. He has already admitted to this.

Therefore, this is very clear. On this matter, he accepted advantages without making any declaration and this is very clear. The second matter is that apart from this large apartment intended for his retirement, he also made trips to Phuket on private jets but only paid the fares for economy-class seats. The other day, members of the Panel on Public Service said here that at present, civil servants were very angry and they could only laugh at themselves or joke about this, saying that this is like "eating roe crabs but paying the price of green crabs". At present, all people are pent up with anger, so they can only poke fun of this matter to vent their spleens. To make trips on private jets but pay the fares of a seat in the economy class. After arriving at Phuket, he lodged in his friend's yacht and of course, no payment was necessary. Donald TSANG explained, "I will pay out of my own pocket when I lodge in a hotel. But as I was lodging in my friend's yacht, there was no need to pay as it was my friend's yacht.". However, we must understand one point. It is yachts that are truly luxurious. It is private yachts that are truly awesome and they can be far more luxurious than hotels by many times.

Therefore, this is obviously a kind of hospitality. Dare the Chief Secretary for Administration say that this is not a kind of advantage or hospitality? You may say that this can be regarded as social life with friends, but would not such social life with tycoons and what is more, lodging in other people's yachts, be far too pleasurable?

Of course, he was also like this in Macao, making trips on private yachts but paying only the fares for an ordinary ferry ride. Then, he stayed in some people's yachts but said he only ate some congee. How can I possibly know

what he ate? However, he lodged in other people's yachts and did not try to avoid arousing suspicion in any way. This is very clear, and there is a mountain of evidence against him.

He did not make any declaration and this is also very clear. That tycoon has stakes in the tunnels in Hong Kong — the Western Harbour Crossing and the Eastern Harbour Crossing — and the Chief Executive also said that when the tunnel companies applied for toll increases, he did not make any declaration either. It is also very clear that after accepting the hospitality and when discussing the relevant public issues, he did not make any declaration either. Of course, he argued speciously that "this is social life". However, this is really over the top. Just imagine: If this incident were to happen in overseas countries and the Prime Ministers of overseas countries were to have meals with tycoons, troubles would arise easily. Recently, troubles have arisen in the United Kingdom. That person who claimed that he could arrange for people to have meals with the Prime Minister, David CAMERON, was sacked.

This is very clear and all these issues are undermining clean government in Hong Kong. After the recent impact on clean government in Hong Kong, Hong Kong people really cannot hold their heads up anymore. WEN Jiabao — this Premier in one of the countries with serious corruption in the world, who may be very clean himself, but he is the Premier of a country that may be the most corrupt in the world — said that Hong Kong people must pay attention to integrity, so Hong Kong people really do not know where to bury their heads. Originally, Hong Kong people all said that they really hoped the Mainland could learn from the cleanliness found in Hong Kong but now, in a reversal, they have been given a lecture instead, so we really need to find somewhere to hide.

To civil servants, this really has caused great impact on their morale. Many civil servants said that if their colleagues did anything wrong, they would be dismissed immediately but now, Donald TSANG could do anything, so this is not equitable, for triple or a countless number of standards has been applied and this is most unfair to them.

For this reason, President, the Labour Party will support the motion on a vote of no confidence on this occasion and after this, we will also (*The buzzer sounded*) .....

**PRESIDENT** (in Cantonese): Mr LEE, your speaking time is up.

**MR LEE CHEUK-YAN** (in Cantonese): ..... draft the relevant impeachment motion and I hope Members will support it.

**MR RONNY TONG** (in Cantonese): President, more than a decade has passed since the reunification. We have moved motions on a vote of no confidence in two Secretaries of Departments before, including a Secretary for Justice and a Financial Secretary. However, this is the first time that a motion on a vote of no confidence in the Chief Executive is moved. Of course, the situation is very serious, so an Honourable colleague has moved this motion today.

President, just now, while listening to the Secretary's reply, I was really amazed and grieved because the speech of the Secretary did not try to explain why Hong Kong people and this Council should not lose confidence in the Chief Executive. Rather, it sounded as though he were mitigating to the Court by recounting the tasks that the Chief Executive had undertaken in the past and singing praises of his grand achievements, as if he were pleading with others to let him off because he has also done quite a lot of good deeds before. The Chief Executive has indeed done many "good deeds" and these "good deeds" also make us feel very ashamed.

I remember that when the Chief Executive stood in the election, he claimed himself as a politician. Since he is a politician, he should understand that politics is very treacherous. As we all know, no matter how many good deeds you have done, if you have really taken a *faux pas*, you have to assume responsibility and must not say: I have done a lot of good deeds, so please just turn a blind eye this time and let me off. Sorry, President, this is not a standard acceptable to the public or society.

President, in fact, the moving of this motion today is almost the last move. In fact, we have tried many other ways and given the Chief Executive many chances, hoping that he can, as it is said in English, come clean. However, regarding these chances, be it due to the failure of the Chief Executive to grab them or the hope of some Honourable colleagues not to see this happen, in the end, we could not get the answers that the general public want to get.

President, we have asked questions and moved motions before, hoping that a select committee could be established to conduct an inquiry but all these efforts are in vain. Having come to this stage, the question now is how the expectations of the public on the legislature and on the Chief Executive can be met.

President, today, it is not our wish to just talk about the various acts of corruption committed by the Chief Executive because we have already talked about them many times. However, I believe that apart from these corrupt acts, another equally important, if not more important, failing is that the whole incident has revealed the fact that the Chief Executive is completely devoid of integrity. Not to mention a politician, if the head of the Government or a leader of society has no integrity whatsoever, how can we continue to trust him? President, for this reason, the focus of this motion today should be on the integrity of the Chief Executive.

President, why do we say that he has an integrity problem? This can be seen in many aspects. First, he once said openly that he was willing to abide by and comply with the codes on the acceptance of advantages for appointed officials of his own accord, but the outcome and the facts show that not only did he breach and even disregard the codes, he was on the take even on a larger scale and went even further, thus bringing all civil servants and appointed officials into disrepute. President, not only did he tell lies, he even disregarded our core values. He once said publicly in the legislature that he had a set of codes for self-regulation. If I remember this correctly, at that time, it was the party leader of the Civic Party, Mr Alan LEONG, who asked him where that set of codes was. In the end, it turned out there was none and everything is "internalized" and that it is just like "a divine book without words". Is this not a problem relating to his integrity?

President, there are also many other examples. Concerning the rental of a flat in Shenzhen, in fact, there is a series of doubts. Is there any property owner in the world — if no dealings and no acceptance of advantages or transfers of benefits exist — who would be willing to spend millions of dollars on renovation without having signed any tenancy agreement beforehand, just to please people who may be potential tenants? What arouses even greater doubt in me is that this matter came to light in February this year and the paper submitted by the Government says that the tenancy agreement was signed in February. Is this tenancy agreement a tool to cover up the crime because the Chief Executive was

exposed to have rented a luxury property in Shenzhen? If this is so, his integrity is entirely bankrupt.

President, in fact, there are also many other examples. For example, it has been revealed recently that on the Christmas Eve of December 2007, the Chief Executive stayed in a luxurious Palazzo suite in a hotel in Macao. This is a suite that ordinary people cannot even look at, not to mention book one. The Chief Executive went so far as to say that it was his son who booked it inadvertently. So how much was the fee? He does not know. Why could he book it? He does not know. Why did he stay there on Christmas Eve? He does not know. Why does the Chief Executive think that after doing this sort of things, he does not have to give an account to the public? Why would he fabricate reasons that no one would believe in, so as to lead Hong Kong people into thinking that there is nothing wrong with him?

President, I think it is impossible for me not to support the motion today.

**MR ALBERT HO** (in Cantonese): President, all along, Hong Kong has taken pride in being a corruption-free society, while the Mainland is known for its corruption. Fifteen years after the reunification, it so turns out that Chief Executive Donald TSANG was criticized obliquely by Premier WEN Jiabao, who demanded that Hong Kong must ensure its integrity, so Hong Kong people are really grieved by this.

The older generation of Hong Kong people has experienced the scourge of corruption. We witnessed the establishment of the Independent Commission Against Corruption (ICAC) and the efforts made by it, so we know clearly that Hong Kong's achievements nowadays hinge on our adherence to our core values, including the rule of law, the freedom of the press and clean government, so that a fair business environment and open social system can be maintained in Hong Kong.

However, in the years after the reunification, Hong Kong has experienced one incident of collusion between the Government and business after another, including incidents relating to the Cyberport, the Hung Hom Peninsula, the Grand Promenade and the single-tender approach for the West Kowloon Cultural District project and even the suspected deferred benefit involving Mr LEUNG

Chin-man. The public has begun to question if relationships of interest transfers exist between the Chief Executive together with senior officials and consortia long ago. Recently, the serious incident of the former Chief Secretary for Administration, Mr Rafael HUI, being detained by the ICAC for corruption has also come to light. Today, we want to debate the motion on a vote of no confidence in Chief Executive Donald TSANG because of his involvement in corruption. Although it is highly likely that this motion would not be passed due to the opposition from the pro-establishment camp, the alarm on integrity in Hong Kong has already been sounded.

The focus of the motion today is not on whether or not Donald TSANG breached the Prevention of Bribery Ordinance, but whether or not his conduct has lived up to the political ethics expected of the Chief Executive. If he cannot live up to them, the seriousness of this matter will make it impossible for the public to remain confident in him, so he should step down. I will now express my views on this matter.

First, after Donald TSANG had been exposed to have accepted the hospitality of tycoons on a number of occasions, he claimed that in 2007, he had set guidelines for himself. He said that so long as there was no conflict of interests, the Chief Executive was allowed to accept the hospitality and it was only necessary to pay the market rate charged by commercial transport operators but he could not save transport fares through the acceptance of hospitality. Subsequently, on being questioned by Legislative Council Members on a number of occasions, the Chief Executive finally admitted that the relevant guidelines were actually "three nots", that is, the Civil Service Bureau has not been consulted, they have not been discussed by the Executive Council or the Legislative Council, and even more strangely, there is no formal record whatsoever.

President, we have been in public service for many years and know clearly how important it is to have guidelines that regulate the Chief Executive. However, it turns out that there is no formal record of meetings, so this is downright a fantasy story and the public absolutely have grounds to believe that Donald TSANG never prescribed any guidelines to regulate himself at all. Even if we concede that he did and even if the Chief Executive really has these unwritten guidelines in his mind, are these guidelines actually reasonable and would the public find them convincing? If one can make trips and stay on a

luxurious yacht by paying a mere \$500, any sensible person would know that the hospitality accepted by him is far greater than the money paid by him. As the head of the Government, how can acceptance of such hospitality not give people the impression that this is a display of his greed?

We must bear in mind that all along, civil servants are subjected to stringent regulation and they absolutely cannot accept any Donald TSANG-style hospitality, or they will have to face investigations, prosecution and even penalties. Even for officials on political appointment, if they are found to be involved in similar incidents, they will surely have to step down and be investigated by the ICAC. Donald TSANG proffered the explanation that it was hospitality among friends, but I ask Donald TSANG not to forget the fact that had he not been the Chief Executive, why would so many tycoon friends have extended such hospitality to him? I ask him not to delude himself and others.

In addition, by renting a luxury property on the Mainland from a Mainland tycoon, Mr WONG Cho-bau, there was an even more serious conflict of interest because Mr WONG is a major shareholder of the Digital Broadcasting Corporation Hong Kong Limited. When the Executive Council considered the grant of the relevant licence and the application from Prof Arthur LI to assume chairmanship (Mr Arthur LI is also a shareholder of this company), it turned out he never declared his close relationship with Mr WONG Cho-bau, nor did he try to avoid arousing suspicion by disclosing that he had rented a property owned by Mr WONG Cho-bau in favourable terms and that these favourable terms include free luxurious renovation and rent below the market rate.

President, Mr Donald TSANG once admitted that he only planned to live there for a short period of time after retirement and in the long term, he would return and live in Hong Kong. However, would the owner spend a large sum of money equivalent to three years of rent to carry out renovation for a short-term tenant? If he were not Donald TSANG, would he receive such generous treatment?

Donald TSANG said in his explanation that his conduct had fallen far short of public expectation, so he apologized for this. In fact, it is not the public who have changed, but it is Donald TSANG who has changed for the worse. The public's expectation of him is only based on the ethics for civil servants in general and this is by no means stringent. However, he could not even meet such a

standard and his explanations are all the more inconceivable. Therefore, be it the public, the Civil Service and even his team of accountability officials, they all felt they have been disgraced by his conduct, which is considered to be corruption.

President, we have no choice but to support the motion on a vote of no confidence moved by Miss Tanya CHAN.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, just now both Mr LEE Cheuk-yan and Mr Albert HO incidentally mentioned that Premier WEN Jiabao had urged the SAR Government to keep clean. Feeling shocked by this, both of them considered this a shame, and queried why Premier WEN Jiabao would make such a remark to the SAR Government.

I really think that we should ask this question: Why did Premier WEN make those remarks? The SAR Government has been established for 15 years. Over the years, no Chinese premier or official has ever made such remarks to Hong Kong officials until recently. Therefore, I think the Secretary should not evade answering this question seriously. The Secretary must answer the question why the Premier has made the remark and whether the incumbent government officials really have a problem. If so, we cannot cover it up, or else no improvement can be made. Therefore, we must make it clear whether some officials have failed to keep clean in performing their duties.

The Secretary pointed out just now that Members should deal with the issue in a fair and impartial manner. I agree with this. We should not only hold a fair and impartial attitude. As Mr Ronny TONG said, we have never moved a vote of no confidence in the Chief Executive in this Council. This is the first time. So, apart from being fair and impartial, we should be solemn and this is important. The person in whom we have no confidence is the Chief Executive rather than an ordinary official and this is much more important.

The question is: Why do we have to move this vote of no confidence today? It is very simple. Because we have seen a series of incidents exposed by the public and the media involving the Chief Executive's acceptance of hospitality offered by rich tycoons. He initially did not think that there was any problem and still plausibly said that he would observe some rules in dealing with

such hospitality. He addressed the problem in a solemn manner and offered an apology in a pitiful manner only after being condemned by the public and requested to answer questions in the Legislative Council.

However, President, to offer an apology is not equal to admitting a mistake. We have never heard the Chief Executive admit his mistakes concerning his acceptance of hospitality. As some Honourable colleagues said just now, he has only admitted that he had fallen short of people's expectations. Under such circumstance, can we accept such a person to be the Chief Executive of the SAR Government? How can a government operate if its leader, after committing a mistake, simply said that his act has fallen short of people's expectations and refuses to admit the mistake?

As we said in our speeches on today's agenda items just now, how should we educate the next generation in an era of lies which has just begun? After we have done something wrong, we tell the others that "we have done nothing wrong. It is simply because your expectation is too high for us." Is this the spirit of Hong Kong as a whole? I think this is really a problem. Why can the Government not seriously deal with it? Why can the Government not look at the issue in a fair and impartial manner? On the contrary, it has advised us not to support Miss Tanya CHAN. I think this is weird. Are we going to educate the next generation with this spirit of Hong Kong?

The incident is crystal clear. Some Honourable colleagues asked the Chief Executive this question in the Question and Answer Session: Under similar circumstances, if a civil servant asks his supervisor whether approval will be granted for the acceptance of such hospitality, what will be the answer? Mr TSANG was speechless and did not give any answer. He did not say yes or no in a definite manner. Why did he not answer it? If he thinks that there is no problem, he can answer the question without hesitation. Why was he unable to do that?

By the same token, some other colleagues asked him: Who were his companions on his yacht and private jet trips and whose private jet was it? Members asked these questions because we are very concerned about a frequently discussed issue: collusion between business and the Government. In a recent case, a senior government official was arrested by the ICAC for collusion with business. I wish to know who these people are. But he refused to disclose on

the ground that they were his friends and it was inconvenient to disclose their names. However, if these are really social activities with his personal friends, why can he not be frank and open? Why can he not disclose the relevant information to the public? Why does he have to cover it up? This will only lead to more questions or doubts. Nevertheless, the Chief Executive has simply ignored the problem, turning a blind eye to it. Under such circumstances, how can we have confidence in the Chief Executive and let him continue to run the Government?

Eventually, the Chief Executive said that an Independent Review Committee would be set up to review the code of conduct applicable to the Chief Executive. If the Independent Review Committee comes to a decision in future that such hospitality is not appropriate and punishable, should the Chief Executive be subject to sanctions? If not, this will be a notion of "quod licet Jovi, non licet bovi". If the new Chief Executive is prohibited from accepting such hospitality but he can do so, is this a high-handed approach? In such a case, how can we have confidence in the incumbent Chief Executive?

Therefore, regarding today's motion, I believe all Honourable colleagues will deal with it in a fair, impartial, equitable and solemn manner. We are not putting up a "political show" to state our stands as described by the Secretary. Although he did not say so in an explicit way, his words did carry such an implication. I think we are really not doing so.

**MS EMILY LAU** (in Cantonese): President, I rise to speak in support of Miss Tanya CHAN's motion.

Since the undesirable behaviour of Chief Executive Donald TSANG was exposed, the community as a whole is furious. President, I believe many people, be they civil servants or people from the political circle or business sector, have discussed with you about this incident. Some people in the business sector told me that the common topic of discussion among most diners in a banquet was the Government. Why has the Government come to such a pass? This is the question they asked.

President, compared with the Mainland, the problem of corruption in Hong Kong is less serious. However, Hong Kong has been famous for its clean

government. Even though Donald TSANG's behaviour is so disappointing, I still believe Hong Kong, as a city in the People's Republic of China, ranks first in terms of probity and the rule of law. But thanks to Donald TSANG, our rating in this aspect has been declining. If the authorities said that the incident should be dealt with in a fair and impartial manner, then why was our request for conducting an investigation rejected on the ground that the ICAC is also conducting an investigation? Certainly, the ICAC is conducting an investigation. An Independent Review Committee chaired by Mr Andrew LI should also investigate this incident because some acts may not fall into criminal jurisdiction. However, this Independent Review Committee is not allowed to conduct an investigation into the matter. It is invited by the authorities to look ahead. Therefore, we are really very furious.

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

Deputy President, a special meeting was convened by the Public Service Panel of the Legislative Council on Saturday, 14 April. A number of civil servants' trade unions were very angry when they expressed their views. And they had cited many examples. Compared with Donald TSANG who had accepted hospitality such as yacht and private jet rides, those civil servants had only committed minor and insignificant mistakes, but they were severely punished. Thus, they had raised various questions in respect of civil servants' conduct in future. For instance, if they are invited to a meal of hairy crabs, should they pay the price of mud crabs? How can they have any self-respect when facing the public? Because of these, civil servants felt very shocked.

At the meeting, some representatives also told Miss Denise YUE that she should not pretend that nothing had happened. Rather, she should advise the authorities that the incident has dealt a great blow to the Civil Service as a whole. In my opinion, Miss YUE or the authorities should also make some suggestions to the Independent Review Committee chaired by Mr Andrew LI. However, Deputy President, no proposal was put forth by the Secretary on that day. Should the authorities not consider how to make improvement after the occurrence of such an important incident? So, Deputy President, I am really angry.

I have looked up some information and found that the Prevention of Bribery Ordinance (POBO) was amended in June 2008. It is in fact terrible. Although the transfer of sovereignty took place in 1997, amendments to the POBO were considered in as late as 2008 in order to make it applicable to the Chief Executive. In the meantime, we have reiterated our points time and again but the authorities refused to accept it. Mr TUNG Chee-hwa came forth to say that he was willing to accept it. In fact, it should be acceptable to all because under the Basic Law, all are equal before the law in Hong Kong. As a result, we completed our deliberations in June 2008.

Deputy President, let us take a look at paragraph 37 of the relevant paper. At that time, I pointed out that section 3 of the POBO governing the soliciting or acceptance of an advantage by a prescribed officer should be applicable to the Chief Executive. At that time, I added that a mechanism should be set up to approve the acceptance of advantages by the Chief Executive or else ..... Deputy President, the Chief Executive will not be in trouble because section 3 is not applicable to him. What is the purpose of the ICAC investigation? At that time, we raised this question: As all other officials have to seek the Chief Executive's permission, then from whom the Chief Executive should seek permission? What did the Chief Executive say in reply? He said in the authorities' opinion, there would be great difficulty if the provision was made applicable to the Chief Executive because this provision was only applicable to officers supervised by the Chief Executive. In other words, prescribed officers are required to seek his permission before soliciting or accepting advantages. He maintained that the Chief Executive should not grant permission to himself for accepting advantages. So, if the Chief Executive is also governed by this provision, it will give rise to a structural difficulty in the regulatory framework. Besides, there is a premise under section 3, that is, the principal-agent relationship. As the Chief Executive is not the agent of the SAR and he has no corresponding principal in the Hong Kong SAR, it will be too difficult to implement this provision.

But the question is: Should we continue to turn a blind eye to it so that LEUNG Chun-ying can accept advantages? We can see that this is a big problem, which has existed for many years. Afterwards, Donald TSANG raised the point that he is regulated by rules which are not written in any book, meaning that he is not regulated at all. Deputy President, as you may notice, LEUNG Chun-ying said that he is willing to accept all regulations applicable to civil

servants. I hope that the Independent Review Committee chaired by Mr Andrew LI will draw this conclusion. But I do not want to hear the same pretext cited by the authorities in 2008, that there will be great structural difficulty in the regulatory framework, the status of the Chief Executive is different, and so on. We do not want to hear any more of such nonsense in Hong Kong.

The SAR as a whole feel disgraced because of Donald TSANG. It is absolutely a global laughing stock. The vote of no confidence motion today is mercy on him. Perhaps a much more rigorous approach may be initiated by someone else. However, I believe many citizens (*The buzzer sounded*) .....

**DEPUTY PRESIDENT** (in Cantonese): Speaking time is up.

**MS EMILY LAU** (in Cantonese): ..... hope that we will take action as soon as possible.

**MS CYD HO** (in Cantonese): Deputy President, the corrupt Chief Executive has damaged the public's confidence in Hong Kong's clean and honest government. Since the Chief Executive is not subject to section 3 of the Prevention of Bribery Ordinance, the Independent Commission Against Corruption will find out nothing from its investigation.

Donald TSANG's so-called "self-regulation" is not put down in writing. It is completely verbal. Compared with those convicted, imprisoned and terminated civil servants whose pensions have been deducted, the Chief Executive's corruptive behaviour is unsurpassed.

However, he is not punished. Why is he still at large? Many Members said that it is because he is the Chief Executive, thus enjoying immunities. In fact, these privileges should be exercised in a discreet manner. If he really enjoys immunities, then he should be extremely cautious in his acts and has to be whiter than snow. But this incumbent Chief Executive has wasted the efforts of the whole senior level of administration, which has been saying that his immunity is crucial to the avoidance of any disgrace to the system. As a result, he has not only disgraced himself; he has also disgraced the present system.

Upon the exposure of these corruption incidents, the public certainly are very concerned and hope to find out the truth. The public are also eager to know when corruption has infiltrated the jurisdiction of Hong Kong. At that time, some Members (including those of the Labour Party) raised some urgent questions. I also proposed an adjournment debate so that we could express our views to enable the public to gain a fuller understanding of the issue. The most powerful tool to help the public understand the truth is the establishment of a select committee under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance), enabling the public to have a better picture of the truth through open meetings and hearings. Unfortunately, these motions and initiatives that could have been accomplished were invariably opposed by the pro-establishment camp. As a result, nothing can be done. Why did we have to investigate KAM Nai-wai? Why has the investigation lasted for 27 months? Why do we not investigate things that have aroused such public attention?

Hence, I hope Mr IP Kwok-him will explain to us in detail later. During the past month, we said no investigation should be conducted for two reasons. Firstly, it is a waste of the Legislative Council's time because the current term will soon expire. Secondly, it is a waste of public money because the Chief Executive has admitted the blunder. Why do we have to conduct an investigation? But we need to look into how these corrupt incidents happened. Although the P&P Ordinance has conferred on us powers to set up a select committee for investigation, it has been rejected. We have come this far today to this final step to move a motion on vote of no confidence.

There is actually solid evidence and the Chief Executive himself has already admitted part of it. Hence, I am very eager to hear from Mr IP Kwok-him whether he is in favour of this vote of no confidence motion or not. He has to give a proper explanation if he opposes the motion. Mr WONG Kwok-kin just mentioned that Members should clearly know what topics the public care about and he said that there would be many Members expressing their views. As a result, 23 Members spoke on the motion on housing. Do you think that the public care less about the Chief Executive's corrupt behaviour? Why are there only two Members present on my left? Why are the seats almost empty? Is it because they are afraid of making their position known on the issue? Is it because they know very well that the Chief Executive is not worthy of help on the one hand while knowing that election is something that they have

to face on the other? Is it because they prefer to leave the Chamber and come back later to casually cast a negative vote?

We certainly know that this vote of no confidence motion will not be passed in the end. But the Labour Party already clearly stated a month ago that we would proactively seek Members' support to initiate the impeachment mechanism. Although there are only 72 days left in the Chief Executive's current term of office, we still insist on doing so because we have to be responsible for those civil servants who have been upholding their integrity, honesty and pride in such a bad environment. We are duty-bound to uphold probity in public administration so that the clean and honest culture we have nurtured over the past 40 years can pass on. We will not be lax simply because there are only 72 days left in the Chief Executive's term of office. This is not only an issue of Donald TSANG. Quite the contrary, this is a question that we must answer to the civil servants who have been serving the public with integrity, honesty and pride.

The destruction of records is another topic which I can trust neither the Chief Executive nor the Chief Executive's Office. Deputy President, the authorities have destroyed 66 linear metres of records during the removal of the Government offices. Do you know what the Chief Secretary for Administration said in his written reply yesterday? He said that those records were vouchers and receipts of duty passage and expenses. He fudged this issue by showing me four main categories. I was actually asking about the names of those records. I have to put this on record to demonstrate why I have raised this question. It is because I learnt from a document that among these destroyed records, there were some newspaper clippings and relevant information belonging to a Member of the Executive Council. But the document was taken back after perusal. That is the reason why I raised a written question for his reply. How can I trust an evasive Government that favours black-box operation and covers up information?

Deputy President, I would like to cite two recent examples. Hungary's President Pal Schmitt was stripped of his doctorate after he was accused of plagiarism in his two theses on Olympics in the 1990s. The incident was not a very serious one, but on 2 April — not long ago — he announced his resignation. In his resignation announcement, he said his personal issue has divided the nation he loved. For the sake of solidarity, he felt obliged to retire from office.

Today, Mr TSANG's corrupt behaviour is causing the morale of the civil servants to sink, causing an internal division among them. They are not interested in abiding by all of these (*The buzzer sounded*) .....

**DEPUTY PRESIDENT** (in Cantonese): Speaking time is up.

**MS CYD HO** (in Cantonese): ..... provisions in the Ordinance that "only restricts the lower grades but not the senior level". Therefore, Donald TSANG should step down.

**MR IP KWOK-HIM** (in Cantonese): Deputy President, incidents concerning the alleged acceptance of hospitality by the Chief Executive, Mr Donald TSANG, have been referred to the professional and credible Independent Commission Against Corruption (ICAC) for investigation. The DAB considers that this is the most appropriate arrangement and also most in line with the fundamental interests of Hong Kong. Furthermore, as the Chief Executive has also undertaken to fully co-operate with the ICAC investigation, we believe the ICAC will certainly live up to people's expectation, find out the truth of these incidents, allay public concerns, restore the confidence of Hong Kong people in the SAR Government and public officials in upholding honesty and probity as well as the system for prevention of corruption. Just now, I heard Ms Cyd HO repeatedly state that they felt there is sufficient evidence and assert that corruption was already a fact. The DAB does not agree with such an argument.

Over the years, the ICAC has endeavoured to combat corruption. Because of its efforts in upholding the rule of law and probity in Hong Kong, it has won the people's recognition and trust. Therefore, we really do not understand and even query why some Members of the Legislative Council should hastily and repeatedly try to interfere with the investigation of the ICAC and weaken its credibility through this Council, through such means as the proposal to invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) or moving a vote of no confidence motion while the investigation by the ICAC is underway. Do Members think that the proposal to invoke the P&P Ordinance while the investigation by the ICAC is underway will not affect or hinder the investigation of the ICAC? Do Members really not know that a vote

of no confidence in the Chief Executive before the ICAC has drawn any conclusion on whether the alleged acceptance of hospitality by Donald TSANG is a breach of the law would unduly bring pressure to bear on the ICAC?

The DAB opines that if we attach importance to a fair and clean society of Hong Kong which is cherished by Hong Kong people, we should also respect and uphold the role and credibility of the ICAC. We should wait for the completion of the investigation and publication of the findings by the ICAC before making a fair comment in order to reflect that, we as Members of this Council like every citizen, believe that the impartial and professional ICAC officers can effectively uphold the fair and clean society of Hong Kong. Therefore, the DAB will unequivocally express our opposition to the vote of no confidence in the Chief Executive. Thank you, Deputy President.

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

(No Member indicated a wish to speak)

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Deputy President, I wish to state clearly that the SAR Government opposes the motion on a vote of no confidence in the Chief Executive moved by Miss Tanya CHAN.

In the past seven years, the Chief Executive has dutifully performed his functions by fully co-operating with the Legislative Council and the community. He has been leading the SAR Government in formulating policies and measures that meet the aspirations of the public, and in the course of doing so, he has coped with various crises, including the global financial tsunami, as well as the impacts of a volatile external environment on Hong Kong, and led Hong Kong in overcoming various challenges.

Both the Chief Executive and the SAR Government are prepared to listen humbly to the criticisms or views of Members on the Chief Executive. However, Miss Tanya CHAN has moved a motion on a vote of no confidence in the Chief Executive after the incumbent Chief Executive has led the SAR Government for more than six years and when there are just a little more than two months left in the term of this Government. This is to completely rule out the

efforts made by the Chief Executive for the long-term welfare of Hong Kong since 2005, overlooking the bountiful results of the administration effected by him and his team. This is rather unfair to the Chief Executive and the whole governing team. I hope that when considering this motion, Members can adopt an objective and fair attitude by making comprehensive and serious reflection rather than one-sided judgments.

Deputy President, since taking office in 2005, the Chief Executive has striven to promote Hong Kong's development on all fronts. When this Government was established in 2007, he advocated the concept of progressive development: Promoting economic development through infrastructure projects, creating job opportunities and improving people's living. Under the leadership of the Chief Executive, this Government has implemented his election platform, making achievements in various areas in Hong Kong society, including the following areas:

- In respect of the economy, we have successfully withstood the financial tsunami and continued to maintain the position of being the freest economy in the world and one the most competitive economies. In the past five years, the per capita GDP of Hong Kong has risen by 22%, the total workforce has increased by 225 000 people, the 10 major infrastructure projects are progressing in full swing and the development of the six industries where Hong Kong enjoys clear advantages is being promoted;
- in respect of the housing policy, this Government has decided to resume the Home Ownership Scheme (HOS) and introduce the My Home Purchase Plan to help members of the public acquire their own homes, to regulate the sale of new residential properties by legislation, as well introducing a special stamp duty to curb short-term speculative transactions;
- in helping the grassroots, this Government has increased the monthly rate of Old Age Allowance, implemented the statutory minimum wage, introduced a work incentive transport subsidy, and offered healthcare vouchers and fare concessions for the elderly. We have also proposed plans to redevelop and expand existing hospitals and build new hospitals;

- in respect of education, this Government has extended free education to 12 years and begun to subsidize pre-primary education in the form of vouchers and introduce small class teaching in primary schools in a progressive manner;
- in respect of development and heritage conservation, this Government has formulated a new urban renewal strategy, offered various forms of financial assistance for the repair and maintenance of buildings and heritage conservation, and launched statutory schemes to regulate minor works and mandate periodic building and window inspections to ensure building safety;
- in respect of enhancing regional co-operation, this Government has successfully secured in the National 12th Five-Year Plan a dedicated chapter covering Hong Kong and Macao, signed a framework co-operation agreement with Guangdong, and actively participated in Shenzhen's planning for the development of Qianhai. In addition, this Government has also stepped up exchanges and co-operation with Taiwan and set up the Hong Kong Economic, Trade and Cultural Office in Taiwan; and
- in respect of constitutional development, we have secured support from the Legislative Council and the Central Authorities have set a timetable for the full implementation of universal suffrage for the Chief Executive in 2017 and for the Legislative Council in 2020. This is an important milestone in the constitutional development of Hong Kong. In the 2012 Legislative Council Election, 3.56 million registered voters will have two votes each — one for geographical direct elections and one for functional constituency elections under the "one person, two votes" arrangement, and nearly 60% of the seats in the fifth Legislative Council will have the mandate of more than 3 million voters. This will significantly enhance the democratic element of Legislative Council Elections, thus paving the way for the implementation of universal suffrage in the 2020 Legislative Council Election.

Deputy President, earlier on, the acceptance by the Chief Executive of the hospitality extended by his friends when he was on vacation outside Hong Kong

and the renting of a unit in Shenzhen have aroused widespread public concern and queries about the conduct of the Chief Executive and the existing system for preventing conflicts of interest.

That public officers should adhere strictly to probity, impartiality, and righteousness is a core value that the SAR Government has all along abided by. The Chief Executive has also reiterated a number of times that he has done nothing whatsoever in breach of the law or internal codes. After solemn reflection, the Chief Executive admitted that "there is a gap between the current rules, with which he has dutifully complied with, and the expectations of Hong Kong people. As a result, there has been disappointment from the community.". He has also tendered a serious apology to the public and undertaken to be more prudent and sensitive in his conduct in the future. He has also given a full and honest account of the whole incident through various channels, including attending the Special Chief Executive's Question and Answer Session convened by the Legislative Council on 1 March.

To further address public doubts, the Chief Executive has decided to give up the rental of the apartment in East Pacific Garden, Shenzhen and engage professionals to hold discussions with the landlord on dissolving the rental agreement. Moreover, the Chief Executive has also made a public undertaking that if the law-enforcement agencies commence any investigation into the foregoing incidents, he would render his greatest co-operation and would not interfere in any way.

In fact, the incumbent Chief Executive has all along attached great importance to the integrity of public officers. In the first Policy Address delivered in 2005 after taking office, he set a good example by his own conduct as he indicated clearly that he would accept regulation by the Prevention of Bribery Ordinance (POBO). Subsequently, this Government amended the POBO in 2008 to provide for control on and sanctions against the commission of bribery or corruption offences by the Chief Executive. At the Council meeting on 22 March, I already explained in detail the relevant amendments in response to Mr LEE Wing-tat's motion and I am not going to repeat them here.

Pursuant to the statutory power conferred by the Independent Commission Against Corruption Ordinance, the Commissioner of ICAC will investigate any suspected or alleged offence under the POBO committed by the Chief Executive.

The independence of the ICAC is fully safeguarded by the Basic Law and the Independent Commission Against Corruption Ordinance. All investigation results of ICAC cases must be reported to and monitored by the independent Operations Review Committee to ensure that all corruption complaints, including any complaint of corruption against the Chief Executive, are handled properly.

Apart from being subject to the POBO, under the existing system, the Chief Executive is also regulated by other corruption prevention measures, including:

- Article 47 of the Basic Law provides that the Chief Executive must be a person of integrity, dedicated to his or her duties. Moreover, the Chief Executive, on assuming office, shall declare his or her assets to the Chief Justice of the Court of Final Appeal and the declaration shall be put on record;
- the Chief Executive is subject to common law offences relating to bribery under which any person who offers bribes to the Chief Executive commits an offence;
- the Chief Executive is also subject to monitoring of the impeachment proceedings prescribed under Article 73(9) of the Basic Law. At the same time, he is also closely monitored by the public and the media.

(THE PRESIDENT resumed the Chair)

The Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests, chaired by the retired Chief Justice of the Court of Final Appeal, Mr Andrew LI, has already commenced its work. It is now conducting a comprehensive review of the existing regulatory frameworks and procedures for the prevention and handling of potential conflict of interest concerning the Chief Executive, Non-Official Members of the Executive Council and Officials under the Political Appointment System. By the end of May, the Independent Review Committee will submit to the Chief Executive a report with recommendations on improvement measures to the existing frameworks and procedures. We will fully co-operate with the Independent Review Committee to see if there is any room for strengthening the current system.

President, the economic fundamentals in Hong Kong nowadays are strong. There are robust development opportunities for our four pillar industries and the six priority industries in which Hong Kong enjoys clear advantages. Hong Kong continues to maintain an independent and quality judicial system. There are still adequate respect and protection for the human rights and civil rights of the public, including the freedoms of press, assembly, information, and so on. In respect of people's livelihood, members of the public can enjoy such quality services as education, healthcare, social welfare, and so on, living in peace and working with contentment. In terms of democratic development, we have also made some progress. These are fruits of the devoted administration effected by the SAR Government under the leadership of the Chief Executive.

On various occasions, the Chief Executive has already given positive, serious and comprehensive responses to the concerns relating to him voiced by the community recently. We believe there is insufficient ground for moving a motion on a vote of no confidence in the Chief Executive, nor is it fair to do so. There remains a lot of work for this Government to do in the last two months of its term and it has to ensure a smooth transition to the next Government. The Chief Executive and his team have pledged to continue to do their utmost to serve the public until the very last moment of their term.

With these remarks, President, I hope that Members will oppose Miss Tanya CHAN's motion.

**SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS** (in Cantonese): President, I have nothing to add.

**PRESIDENT** (in Cantonese): Miss Tanya CHAN, you may now reply. You still have four minutes and one second.

**MISS TANYA CHAN** (in Cantonese): President, before I saw a phenomenon just now, my heart was heavy. What is the phenomenon? This meeting has turned into an "evangelism" occasion for proclaiming some gorgeous achievements. How amazing it is. After a Director of Bureau has spoken, a Secretary of Department rose to tell us the achievements of the Government

under the leadership of Donald TSANG. After that, Secretaries of Departments and Directors of Bureaux have almost all come back to this Chamber before Members from the pro-establishment camp have returned. We now see that all Bureau Directors and Secretaries of Departments have almost all come back to this Chamber. What did it imply?

It implies that all Secretaries of Departments and Directors of Bureaux have to support the Chief Executive, who, however, will not give any response. He dares not say anything. Basically, he dares not face the public squarely. The gorgeous achievements of three Secretaries of Departments and 12 Directors of Bureaux have almost been detailed before the support to him can barely sustain. As Mr Ronny TONG said earlier, what did it look like? It looks like pleading for him. Just now, the achievements of almost each and every bureau were recounted. Mrs Carrie LAM has really come back late. Just now, even urban renewal was mentioned. On hearing that, I really wanted to laugh. We were told that the economic growth of Hong Kong was more than 22%, in addition to many other things. Of course, concerning our fight for political reform, after Secretary Raymond TAM had spoken, the Chief Secretary — the former Secretary for Constitutional and Mainland Affairs — had to reiterate the points again. What does this mean? The Government has attained these achievements thanks to the efforts of the Civil Service. Perhaps, it is also due to the efforts of the Directors of Bureaux, who have made these achievements possible. Therefore, the Chief Executive, as the leader of the whole government team, should pay more attention to his conduct. He should attach greater importance to a clean system.

What did the Chief Secretary say just now? It is Article 47 of the Basic Law. What is it about? It says, "The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity." President, when was the word "integrity" uttered again? When he took the oath. However, what are the problems with the Chief Executive? Our discussion as a whole today should focus on one point — there should be no more pleading for him — our focus is on the acts of the Chief Executive which were extensively covered by the media more than one month ago. Because of his acts, the image of Hong Kong as a clean city has been tarnished. In fact, officials in this Chamber are also the victims, so are their subordinates, as well as all citizens in Hong Kong. Nevertheless, they have to sit here to sing the praises in order to blur the focus.

Sometimes, if we look back and seek to settle old scores with the Government, we are equally apt to do so. Let us take a look at the wealth gap, which has been deteriorating during the reign of Donald TSANG. We can also see that the market is being monopolized by consortia. Then comes the most outrageous — the clean system we are talking about. However, the Secretary for Constitutional and Mainland Affairs and the Chief Secretary remain to be his "diehard supporters". Has Donald TSANG, in the face of numerous incidents, answered people's questions in a focused manner? For his so-called apology, I think we were impressed. Basically, he did not apologize for his acts. He did not have any sincerity at all.

Here in my hand are the Civil Service Code and the Code for Officials Under the Political Appointment System. But what we lack is precisely the code for regulating the Chief Executive. We are servants to the people. But you officials, seeing that your boss, our Chief Executive Donald TSANG, has done this kind of things, have to escort him. Furthermore, the most classic phenomenon is: we finally see that Members from the pro-establishment camp are coming back to this Chamber in an unhurried manner in order to cast their votes.

With these remarks, President, I hope Members will support my motion.

**PRESIDENT** (in Cantonese): I now put the question to you and that is: That the motion moved by Miss Tanya CHAN be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Miss Tanya CHAN rose to claim a division.

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

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

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

Functional Constituencies:

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

Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Wong-fat, Mr Timothy FOK, Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHAN Kin-por, Mr IP Kwok-him and Dr Samson TAM voted against the motion.

Ms Miriam LAU, Ms LI Fung-ying and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN and Mr Albert CHAN voted for the motion.

Mr CHAN Kam-lam, Mr LAU Kong-wah, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Starry LEE, Mr CHAN Hak-kan and Dr Priscilla LEUNG voted against the motion.

Mr WONG Kwok-hing and Mr WONG Kwok-kin abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 18 were present, four were in favour of the motion, 11 against it and three abstained; while among the Members returned by geographical constituencies through direct elections, 24 were present, 14 were in favour of the motion, seven against it and two abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negated.

#### **NEXT MEETING**

**PRESIDENT** (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 25 April 2012.

*Adjourned accordingly at ten minutes to Eight o'clock.*