

OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 19 December 2012

The Council met at Eleven o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

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

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN, J.P.

THE HONOURABLE CHAN KIN-POR, B.B.S., 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 KWOK-KIN, B.B.S.

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE CLAUDIA MO

THE HONOURABLE MICHAEL TIEN PUK-SUN, B.B.S., J.P.

THE HONOURABLE JAMES TIEN PEI-CHUN, G.B.S., J.P.

THE HONOURABLE NG LEUNG-SING, S.B.S., J.P.

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

THE HONOURABLE MA FUNG-KWOK, S.B.S., J.P.

THE HONOURABLE CHARLES PETER MOK

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN

THE HONOURABLE CHAN YUEN-HAN, S.B.S., J.P.

THE HONOURABLE LEUNG CHE-CHEUNG, B.B.S., M.H., J.P.

THE HONOURABLE KENNETH LEUNG

THE HONOURABLE ALICE MAK MEI-KUEN, J.P.

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

THE HONOURABLE CHRISTOPHER CHEUNG WAH-FUNG, J.P.

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

THE HONOURABLE SIN CHUNG-KAI, S.B.S., J.P.

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

THE HONOURABLE MARTIN LIAO CHEUNG-KONG, J.P.

THE HONOURABLE POON SIU-PING, B.B.S., M.H.

THE HONOURABLE TANG KA-PIU

DR THE HONOURABLE CHIANG LAI-WAN, J.P.

IR DR THE HONOURABLE LO WAI-KWOK, B.B.S., M.H., J.P.

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE CHRISTOPHER CHUNG SHU-KUN, B.B.S., M.H., J.P.

THE HONOURABLE TONY TSE WAI-CHUEN

MEMBERS ABSENT:

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

THE HONOURABLE WONG YUK-MAN

DR THE HONOURABLE KENNETH CHAN KA-LOK

PUBLIC OFFICERS ATTENDING:

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

THE CHIEF SECRETARY FOR ADMINISTRATION AND
SECRETARY FOR HOME AFFAIRS

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

THE FINANCIAL SECRETARY

PROF THE HONOURABLE ANTHONY CHEUNG BING-LEUNG, G.B.S.,
J.P.

SECRETARY FOR TRANSPORT AND HOUSING

THE HONOURABLE MATTHEW CHEUNG KIN-CHUNG, G.B.S., J.P.

SECRETARY FOR LABOUR AND WELFARE

PROF THE HONOURABLE K C CHAN, G.B.S., J.P.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY

THE HONOURABLE GREGORY SO KAM-LEUNG, G.B.S., J.P.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT

THE HONOURABLE LAI TUNG-KWOK, S.B.S., I.D.S.M., J.P.

SECRETARY FOR SECURITY

THE HONOURABLE EDDIE NG HAK-KIM, S.B.S., J.P.

SECRETARY FOR EDUCATION

THE HONOURABLE PAUL TANG KWOK-WAI, J.P.

SECRETARY FOR THE CIVIL SERVICE

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

SECRETARY FOR DEVELOPMENT

CLERKS IN ATTENDANCE:

MR KENNETH CHEN WEI-ON, S.B.S., SECRETARY GENERAL

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

TABLING OF PAPERS

The following papers were laid on the table under Rule 21(2) of the Rules of Procedure:

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2012.....	186/2012
Employment Ordinance (Amendment of Ninth Schedule) Notice 2012.....	187/2012
Telecommunications (Carrier Licences) (Amendment) Regulation 2012.....	188/2012
Clubs (Safety of Premises) (Exclusion) (Amendment) Order 2012.....	189/2012

Other Papers

- No. 39 — Queen Elizabeth Foundation for the Mentally Handicapped
Report and Accounts 2011-2012
- No. 40 — Equal Opportunities Commission
Annual Report 2011/12
- No. 41 — The Accounts of the Lotteries Fund 2011-12
- No. 42 — Social Work Training Fund
Fifty-first Annual Report by the Trustee
for the year ending on 31 March 2012
- No. 43 — Broadcasting Authority
Annual Report 2010-2012
(1 September 2010 — 31 March 2012)
- No. 44 — The Legislative Council Commission
Annual Report 2011-2012

- No. 45 — Fish Marketing Organization
Financial statements for the year ended 31 March 2012
- No. 46 — Vegetable Marketing Organization
Financial statements for the year ended 31 March 2012
- No. 47 — Marine Fish Scholarship Fund
Report for the period from 1 April 2011 to 31 March 2012
- No. 48 — Report of the Independent Police Complaints Council 2011/12
- No. 49 — Office of the Privacy Commissioner for Personal Data,
Hong Kong
2011-12 Annual Report
- No. 50 — Grantham Scholarships Fund
Report of the Grantham Scholarships Fund Committee on the
Administration of the Fund for the year ended 31 August 2012
- No. 51 — Brewin Trust Fund
Report of the Brewin Trust Fund Committee on the
Administration of the Fund for the year ended 30 June 2012
- No. 52 — The Sir Murray MacLehose Trust Fund
Trustee's Report for the period of 1 April 2011 to 31 March
2012
- No. 53 — Chinese Temples Fund
Report of the Chinese Temples Committee on the
Administration of the Fund for the year ended 31 March 2012
- No. 54 — General Chinese Charities Fund
Report of the Chinese Temples Committee on the
Administration of the Fund for the year ended 31 March 2012

No. 55 — Police Welfare Fund
Annual Report 2011/2012

No. 56 — Annual Report on the Police Children's Education Trust
and the Police Education and Welfare Trust 2011/2012

Report No. 8/12-13 of the House Committee on Consideration of
Subsidiary Legislation and Other Instruments

ADDRESSES

PRESIDENT (in Cantonese): Address. Dr Joseph LEE will address the Council on the "Report of the Independent Police Complaints Council 2011/12".

Report of the Independent Police Complaints Council 2011/12

DR JOSEPH LEE (in Cantonese): President, on behalf of the Independent Police Complaints Council (IPCC) I present its third Report after incorporation in 2009. This Report covers the financial year ending 31 March 2012.

In the year 2011-2012, the IPCC scrutinized and endorsed the findings of 3 145 complaint cases involving 6 239 allegations, a decrease of 20.7% and 13.1% respectively over the previous year. During this period, the three most common allegations were "Neglect of Duty" (with 2 910 counts), "Misconduct/Improper Manner/Offensive Language" (with 2 271 counts) and "Assault" (with 417 counts). These three types of allegations accounted for 89.7% of all allegations made in 2011-2012.

In 2011-2012, 1 829 allegations were fully investigated. Of these, 98 were classified as "Substantiated"; 80 "Substantiated Other Than Reported"; 54 "Not Fully Substantiated"; 884 "Unsubstantiated"; 596 "No Fault" and 117 "False". These figures also include 154 allegations of which classification was changed from that earlier conducted by the police following queries raised by the IPCC. In 2011-2012, the IPCC has raised a total of 1 153 query points and suggestions in respect of the cases endorsed. Out of these query points, the police accepted 662 of them.

Under the Observers Scheme, 2 021 observations were conducted in 2011-2012, an increase of 2.4% over the previous year. During the reporting period, the IPCC has also interviewed 13 persons to seek clarification from them on matters relating to the investigation reports.

While continuing to ensure thoroughness and fairness in the investigation to both complainants and complainees, the IPCC has also endeavored to improve the efficiency of the complaint case review process. The average number of days required to review an investigated case has dropped from 145 days in 2010-2011 to 86 days in 2011-2012. This significant improvement is a result of streamlining the vetting procedures within the IPCC Secretariat since early 2011.

In addition, the IPCC is committed to strengthening its communications network by proactively engaging with its stakeholders and the media. During the reporting period, the IPCC met with the Hong Kong Human Rights Monitor, the Civil Human Rights Front and the Hong Kong Journalists Association to gather their views on police handling of public order events. The IPCC has also increased its transparency by arranging media interviews, co-operating with the media on feature articles, and responding to media enquiries promptly. Looking ahead, we will continue to raise public awareness of the IPCC and enhance public understanding of the two-tier complaints system through continuous liaison with stakeholders, concerned groups and the media.

President, on behalf of the IPCC, I wish to take the opportunity of tabling this Report in this Council to thank this Council and other stakeholders for their support of the IPCC's work.

President, I so submit.

ORAL ANSWERS TO QUESTIONS

PRESIDENT (in Cantonese): Questions. First question.

Increase in Rents of Private Domestic Units

1. **MS STARRY LEE** (in Cantonese): *President, the rents of private domestic units have continued to rise, with the rental index for private domestic*

units of size below 40 sq m rising from 130.8 in October 2009 to 239.2 at the same time this year, or a rate of increase of 83%. Moreover, a survey has revealed that the average rent of a 90-square-foot unit which is a sub-division of a flat (commonly known as "sub-divided units") in Sham Shui Po has reached as high as \$34 per square foot, which is over 10% higher than that one and a half years ago. Some members of the public have indicated that the high levels of rents have aggravated the burden on those who are at the lowest stratum of society. In this connection, will the Government inform this Council whether:

- (a) it has conducted any analysis on the changes in the proportion of rental expenditure in the income of grass-roots families in private housing brought by the increase in rents in recent years; if it has, of the details; if not, the reasons for that;*
- (b) it will, in response to the increase in rents, relax the rental limits for applicants of the Community Care Fund's assistance programme "to provide a subsidy for low-income persons who are inadequately housed", and increase the amount of subsidies granted to eligible persons; if it will, of the details; if not, the reasons for that; and*
- (c) it will consider allowing rental expenditure to be deducted from the assessable income under Salaries Tax; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):

President, in recent years, in the midst of a continuous exuberant state of the property market, as well as a tight supply of residential flats, it is apparent that the overheated property market and the economic fundamentals are heading in different directions, and property prices are rising beyond the affordability of the general public. Hence, the Government introduced exceptional demand-management measures in late October 2012, with a view to stabilizing the property market and to reducing the risk of a property bubble. The rental level of private residential flats reflects the property prices, and is also influenced by a host of factors, including the macro-economy, market need and atmosphere in the property market.

Ms Starry LEE has quoted in the preamble of the question the rental index for private residential flats of size below 40 sq m. According to the "Private

Domestic Rental Indices" published by the Rating and Valuation Department, for Class A units (that is, units with saleable area of 39.9 sq m or below), the relevant figure for October 2009 was 106.5 and the provisional figure for October 2012 was 158.2, with a rate of increase of 48.5%.

Our reply to the various parts of the question raised by Ms Starry LEE is as follows:

- (a) Information on the ratio of rental expenditure to household income can be obtained from the population census (conducted once every 10 years) and the by-census (conducted between two population censuses).

While we do not have a definition of "grass-roots families", the results of the 2011 Population Census show that, for households residing in private residential flats with a monthly income below \$10,000, their median rent to income ratio was 41.2% in 2011; *vis-à-vis* 35.4% in 2001 and 41.9% in 2006. For households residing in private residential flats with a monthly income of \$10,000 or more but less than \$30,000, their median rent to income ratio was 31.1% in 2011; *vis-à-vis* 29.5% in 2001 and 27% in 2006.

- (b) The Community Care Fund (CCF) rolled out in October 2012 an assistance programme to provide a one-off subsidy for low-income persons who are inadequately housed to relieve their financial pressure. The amount of subsidy is \$3,000 for one-person households, \$6,000 for two-person households, and a uniform \$8,000 for three-or-more-person households. Among others, if applicants are renting rooms/cubicles, cocklofts or bedspaces in private buildings, their average monthly rent in the past three months shall not exceed the specified rental limit corresponding to the relevant household size, such as \$4,370 for one-person households and \$6,705 for two-person households.

Same as the other CCF programmes, the relevant CCF committees will monitor the implementation of this programme for review on a continual basis. The CCF Secretariat will convey the suggestions

and views received from various sectors of the community to the relevant CCF committees for reference.

- (c) All along, Hong Kong has been adopting a simple and low tax regime, and striving to uphold the taxation principles of fairness and neutrality. For salaries tax, apart from adopting the progressive tax rates which reflect the fairness principle of "earning more, paying more", we have also provided a number of generous allowances. Taking the year of assessment 2010-2011 as an example, about 60% of our working population did not have to pay any salaries tax. Even before implementing the one-off tax reduction announced in the 2011-12 Budget, 85.3% of salaries tax payers were subject to an average effective tax rate of less than 5.5%, while the overall average effective tax rate (net of allowances) for all salaries tax payers was just 8.1%, which is a relatively light tax burden.

The Government has introduced from time to time various tax measures in the light of socio-economic development as well as the livelihood needs of the public. To relieve the tax burden of salaries tax payers in times of economic slowdown, the Financial Secretary announced in the 2012-13 Budget a series of tax measures which include increasing all personal allowances under salaries tax, thus benefiting a total of about 1.5 million taxpayers of salaries tax and tax under personal assessment. The increased personal allowances have already come into effect upon the passage of relevant legislation this July.

President, the Government considers that the various adjusted personal allowances under salaries tax have already taken into account taxpayers' basic needs, including housing expenditure. The Government does not intend to provide tax deduction for rental expenditure.

MS STARRY LEE (in Cantonese): *President, I am disappointed by the Secretary's statement in paragraph (c) of the reply that the Government does not intend to provide tax deduction for rental expenditure. From part (a) of the reply, we can see that the rent-to-income ratio has increased. Even for households with a monthly income below \$10,000, the rent-to-income ratio has*

risen from 31% in 2001 to 41% in 2011, representing an increase of 10%. It is believed that the rent-to-income ratio for grass-roots families dwelling in "sub-divided units" will be much higher.

The main factor leading to rocketing rents is shortage of supply. In order to radically resolve the housing problem of grass-roots families, the Government should increase the supply of public rental housing (PRH), especially PRH in urban areas. I would like to ask the Secretary the following question. Regarding the increase of PRH in urban areas, the redevelopment of aged PRH estates is more feasible and less controversial. Have the authorities conducted any study on the redevelopment of aged PRH estates? If yes, what is the result of the study; if not, why have the authorities not considered it?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese):
President, Ms LEE has mentioned two points. The first one is about the rise in the rent-to-income ratio, and the second one is about the redevelopment of aged PRH estates. Let me tackle the second question first.

The Housing Authority (HA) constantly reviews whether it is necessary to redevelop the dilapidated or aged housing estates. In making such consideration, we will consider the structural safety of buildings, apart from avoiding wastage due to unnecessary redevelopment. But meanwhile, we will also consider whether the number of PRH units can be increased on the same piece of land if redevelopment is to take place. We will consider a host of factors. For example, if an aged housing estate is to be redeveloped, we have to consider whether there are sufficient units in the vicinity for decantation of households which have to vacate their flats and the number of flats to be taken over.

Therefore, we have to consider these factors in a comprehensive manner before deciding whether a particular housing estate should be redeveloped. At present, the HA is undertaking the redevelopment of Pak Tin Estate, while attention has also been paid to other estates. An announcement will be made in accordance with the normal procedure when we have come up with a clear decision.

As for the second question about the rent-to-income ratio, the rent-to-income ratio for lower-income families has indeed risen in the past couple

of years. Summing up, the ratio in 2011, however, may not necessarily be the highest for households of different income strata in the past decade. On the whole, the ratio in 2001 is still higher than that of 2011 when various income groups are compared.

MR CHEUNG KWOK-CHE (in Cantonese): *President, I believe that the rising rents is an indisputable fact, especially in high density districts where the grassroots live and the rent per square foot for "sub-divided units" is really astronomical. Certainly, an increase in PRH units will enable the grassroots to enjoy a stable life, but the Government cannot make a pledge to us that the annual production of PRH units will be increased from 15 000 to 30 000. Nevertheless, may I ask the Government whether it will consider implementing rent control on flats housing the grassroots?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, regarding rent control, I expressed the views of the Government during a motion debate on housing policy in the Legislative Council a few weeks ago. The rent control and security of tenure provisions were removed when the Legislative Council discussed the amendments to the Landlord and Tenant (Consolidation) Ordinance several years ago. Back then, there were a lot of discussions in the community, and there were a lot of debates in the Legislative Council before the amendments were passed. According to the Government's current position, we will not decide to restore rent control lightly. However, Members have pointed out the recent trend of rising rents, including the rising trend of rent-to-income ratio faced by low-income families. The Government is closely monitoring the situation. As I often said in the past, we will pay attention to the trend of rents, and we certainly hope that rents will remain stable on the premise of protecting people's livelihood.

MR KWOK WAI-KEUNG (in Cantonese): *President, exorbitant rents has led to the prevalence of "sub-divided units", which are sub-divisions of flats. These "sub-divided units" will directly affect small flat owners living upstairs and downstairs. But in dealing with the problem of sub-divisions of flats, the Government indicated that these sub-divisions can, to a certain extent, provide residential units to people. What is the Government's specific policy on these "sub-divided units" or sub-divisions of flats? Will the Government consider*

launching a large-scale exercise to inspect all the partitioned units in the territory in order to collect data for reference in policy formulation in future?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, as the Principal Officials responsible for this portfolio in the past said, the Government is very much concerned about the safety of private buildings, including structural safety and fire safety. Therefore, from the angle of safety, the Government attaches great weight to the problem of "sub-divided units" or sub-divisions of flats mentioned by Mr KWOK. However, setting aside the issue of safety, if different types of housing or residential units can meet the social needs and will not pose safety hazards, we will certainly respect the operation of the market *per se*. But setting aside the issue of safety and choice, as I said in my reply to Mr CHEUNG's question just now, we are very much concerned about the trend of rising rents.

(Mr KWOK Wai-keung stood up)

PRESIDENT (in Cantonese): Mr KWOK, what is your point?

MR KWOK WAI-KEUNG (in Cantonese): *President, the Secretary has not answered my question on whether a large-scale data collection exercise will be launched territory-wide to compile statistics on sub-divisions of flats or "sub-divided units" which can be used as reference for policy formulation in future.*

PRESIDENT (in Cantonese): Secretary, will a large-scale data collection exercise be conducted?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, concerning the data collection mentioned by Mr KWOK just now, the answer is in the positive. The Long Term Housing Strategy Steering Committee set up by the Government is making an assessment and projection on the demand for different types of housing by various groups of people. In the hope that an assessment on families which are inadequately housed can be conducted, we

intend to conduct some study. However, I would like to point out that it may not be easy to conduct these surveys because under normal circumstances, staff of the Government cannot arbitrarily enter private premises unless there are suspected fire or safety problems. Nevertheless, we will try to carry out these surveys by all means.

(Mr KWOK Wai-keung stood up)

PRESIDENT (in Cantonese): Mr KWOK, what is your point?

MR KWOK WAI-KEUNG (in Cantonese): *When will this large-scale data collection exercise be completed?*

PRESIDENT (in Cantonese): Mr KWOK, the Secretary has given an answer.

MR WU CHI-WAI (in Cantonese): *President, it is disappointing to hear the Secretary say in part (c) of the main reply that the Government will not consider providing tax concessions for people who are living in private rental housing. I am disappointed because we are entitled to tax deduction for mortgage interest.*

I would like to ask a question about part (a) of the main reply, which stated that the Government does not have a definition of "grass-roots families". Hence, there is no special measure to help alleviate their difficulty in renting flats. But in fact, from October 2009 to 2012, rents have risen by 48.5%, which is quite a staggering figure. Among those who are living in private rental housing, quite a large proportion of them are waiting for PRH. I believe those who are on the Waiting List for PRH will certainly meet the definition of "grass-roots families" mentioned by the Government.

May I ask the Secretary whether the Government will consider providing rental assistance to the people who are living in private residential flats and waiting for PRH; if yes, when will such measure be implemented? If not, why not?

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, when I mentioned in the main reply that the Government does not have a definition of "grass-roots families", I meant the term "grass-roots families" is often mentioned in society but everyone's standards may be different. Here, I have provided some figures for Members' reference. The grass-roots families are those whose monthly family income is \$10,000, or \$10,000 to \$30,000. Indeed, we have seen an upward trend in the median rent-to-income ratio. For low-income families, the existence of the Waiting List for PRH means that needy families can wait for the allocation of PRH. Through the number of applications on the Waiting List, we can approximately estimate the demand. Therefore, it is not impossible to gain a full picture of the grass-roots families' situation.

Regarding Mr WU's question as to whether the Government will consider providing rental assistance, I have shared the Government's views with Members in some motion debates in the Legislative Council. We believe if the authorities provide rental assistance in a hasty manner due to the community's worry about the insufficient supply of flats as a whole, including the supply of rental flats, it may objectively only push up the level of rents and may not necessarily be helpful to the tenants actually.

MR WONG KWOK-HING (in Cantonese): *President, I would like to ask the Secretary a question through you. At present, there are really many tenants who have to dwell in factory buildings as they cannot afford the exorbitant rents of private residential flats. They may be waiting for PRH. The Government said that it is illegal to live in factory buildings and these units should be eliminated in a stringent manner. But as we all know, who wants to be bald if one has hair? Therefore, I would like to ask the Secretary this question through the President. Given that the authorities cannot come up with any measures to meet the need of residents expeditiously who can neither afford the rents of private residential flats nor be allocated PRH, they are actually forced to dwell in cubicles and "sub-divided units" of factory buildings, or even "caged homes". What measures and methods does the Government have to help tenants who are miserably dwelling in factory buildings?*

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, I cannot give a very simple answer to this question. I fully understand the phenomenon pointed out by Mr WONG, that is, a lot of people have to live in "sub-divided units" or units of poor conditions. We now hope that we can try our best to provide PRH for low-income families or individuals. However, the number of applicants on the Waiting List for PRH is still rising. The supply of PRH has exerted pressure on the Government, reflecting the aspirations of the community in this aspect. Therefore, we have set up the Long Term Housing Strategy Steering Committee in the hope that a comprehensive assessment on the demand for various types of housing and the needs of different groups of people can be conducted as soon as possible. Meanwhile, the Government will also endeavour to find more land suitable for residential development. It is hoped that a multi-pronged approach can be adopted to deal with the problem. This is not a simple problem that can be resolved in the short term. But I can tell Mr WONG that the Government is keenly concerned about it and will exert its best to address it.

MR WONG KWOK-HING (in Cantonese): *President, although the Secretary thinks that my question is not simple, I wish to know as stated in my supplementary question, in what way the Government will help the residents concerned to solve their housing problem in the short term since the Government said that it is illegal for them to dwell in factory buildings.*

PRESIDENT (in Cantonese): Mr WONG, the Secretary has already given an answer. If you are not satisfied with the reply by the Secretary, you may follow up through other channels.

MS CLAUDIA MO (in Cantonese): *President, given that the CCF will provide a subsidy for the low-income people who are inadequately housed, the target recipients should be the "N have-nots". Thus, many "N have-nots" living in various districts, including Ma Tau Wai, should be eligible for the subsidy and benefit. For example, there is a case in which the resident concerned is living in a unit below the rooftop. It is not a rooftop structure, but the flat below the rooftop*

PRESIDENT (in Cantonese): Ms MO, please put your question in a succinct manner.

MS CLAUDIA MO (in Cantonese): *Yes. As such cases do not fall within the category of living in cubicles, "sub-divided units" or bedspaces, they are not eligible for the subsidy*

PRESIDENT (in Cantonese): Please raise your supplementary question.

MS CLAUDIA MO (in Cantonese): *..... will the Government consider exercising discretion in these special cases? Because families in this category should be eligible for the subsidy of \$8,000.*

PRESIDENT (in Cantonese): Ms MO, please sit down if you have asked your question.

SECRETARY FOR TRANSPORT AND HOUSING (in Cantonese): President, the CCF will provide subsidies to families in need in order to alleviate their financial burden. After considering the opinions of all sectors of the community, the CCF has provided rental assistance which is one-off in nature. Moreover, in determining the rental assistance, half of the maximum income limit of applicants on the Waiting List for PRH has been taken as reference and adopted as the specified rental limit. To a certain extent, this has also reflected the income levels of the CCF beneficiaries, who have been brought on a par with the target beneficiaries of PRH.

PRESIDENT (in Cantonese): We have spent more than 23 minutes on this question. Second question.

Occupational Health of Staff at Hong Kong Jockey Club's Telebet Centres

2. **DR FERNANDO CHEUNG** (in Cantonese): *President, quite a number of staff members and trade-union representatives of the Hong Kong Jockey Club (HKJC) have pointed out that, with the expansion of telebetting facilities by the HKJC and the pool investment amounts reaching new heights time and again in recent years, the workload of staff at telebet centres has increased substantially. However, the manpower of telebet centres has been reduced instead of being increased, and most of the work is taken up by part-time staff. The HKJC has recently turned off the "call delay system" and, as a result, staff members have to handle incoming calls incessantly. Under prolonged hearing strains, some staff members have symptoms of tinnitus. Furthermore, the HKJC has shortened staff's rest time and they are not permitted to leave their posts over an extended period of time, and therefore they cannot go to the washroom or take rest. It has recently been reported that between September and November this year, two part-time staff members of telebet centres died suddenly while at work and on the way home after work respectively. Regarding the occupational health of staff at HKJC telebet centres, will the Government inform this Council:*

- (a) *whether it has assessed if the current staff establishment of HKJC telebet centres and the proportion of part-time to full-time staff at peak betting hours will overload some staff members with work and thus jeopardize their occupational health;*
- (b) *whether it has examined if the HKJC has provided reasonable rest time to its staff at telebet centres; and*
- (c) *how the authorities regulate the working arrangements implemented by the HKJC for reducing operational costs so that such arrangements do not jeopardize the occupational health of its staff, and recurrence of any tragedy of sudden death of staff can be avoided?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): *President, the Home Affairs Bureau is responsible for formulating the gambling policy, issuing licences for horse betting in accordance with the law and monitoring the implementation of the policy. The Home Affairs Bureau does not and will not*

engage itself in the internal management of the HKJC, including its arrangement on staff establishment and other matters. Similar to other institutions operating in Hong Kong, the HKJC is governed by relevant legislation such as the Occupational Safety and Health Ordinance (the OSH Ordinance) in respect of its operation management and even staff relations. As the information requested by Dr CHEUNG in his question is not in the hands of the Administration, the following information is obtained from the HKJC:

- (a) A telebet centre handles calls that place bets on horse race betting, football betting and Mark Six Lottery. Its operation is different from that of general customer hotline services. The number of betting calls would only soar on the 83 local race days of each year, particularly during the several hours when the races are in progress. Thus, the HKJC has to employ part-time staff to cope with the large number of incoming calls on race days.

In addition to its approximately 300 monthly contract staff, the HKJC's Telebet Department has employed around 8 500 hourly-paid part-time staff to receive the huge number of additional incoming betting calls during the betting period on every race day. During the peak betting hours when the races are in progress, that is, about one hour before the start of the first race up to the end of the last race on a race day, the ratio of the monthly contract staff versus the hourly-paid part-time staff responsible for receiving betting calls is about one to 22.

- (b) The working shifts of the Telebet Department are flexibly arranged according to the slots opted by the staff upon employment. The maximum number of working hours for each shift is nine hours and there is an interval of no less than 12 hours between two shifts. For every four hours of work, monthly contract staff as well as hourly-paid part-time staff are entitled to a 30-minute break with pay, and an additional paid break of 15 minutes after eight hours of work. Furthermore, staff may leave their post for washroom or a cup of water while on shift if needed. The supervisors will arrange manpower redeployment accordingly. A monthly contract staff member generally works 100 to 180 hours per month, while an hourly-paid part-time staff member 30 to 50 hours.

On average, the time used for handling betting calls by each staff member during peak betting hours only makes up about 50% of his paid working hours.

Once the time of a staff member handling one or more calls reaches 20 minutes without a stop, the Telebet Department will activate the call delay system to divert the incoming calls to other telephone units. Upon activation of the system, the telephone unit of the staff member concerned will stop receiving calls for three to six seconds.

- (c) The OSH Ordinance stipulates that employers must, so far as reasonably practicable, ensure the safety and health at work of all their employees, which includes providing and maintaining systems of work that are safe and without risks to health. As far as occupational safety is concerned, according to the HKJC, the working environment and facilities of all telebet centres comply with the legislative requirements of the OSH Ordinance.

As regards the occupational health of employees of the HKJC telebet centres, the Labour Department has conducted a number of inspections to the HKJC telebet centres to assess various potential health risks to the employees at work. The Labour Department has given recommendations on improvement measures, which included urging the management of the HKJC to pay attention to the frequency of betting calls and arrange for short breaks between incoming calls for the employees so as to alleviate their work stress at peak periods. Moreover, the management was recommended to strengthen the training for employees to remind them of tuning the volume of headsets properly while answering betting calls.

As for the incidents involving the sudden deaths of two part-time staff members of the Telebet Department in September and November this year, the HKJC has responded to media enquiries and has issued a statement to provide a detailed account for clarification. The HKJC has nothing to add in this respect.

DR FERNANDO CHEUNG (in Cantonese): *President, receiving betting calls is a very stressful experience because callers are placing bets with their money, so mistakes must not be made in the course of work. While looking at the monitors, staff members have to listen carefully and all the while, they have to control the mouse with their hands. The working hours are long and within a period of four hours, they have to answer calls continually and mistakes must not be made. However, there is only a 30-minute break and even if one works for four more hours, there is only a 15-minute break, so many staff members of the Telebet Department find this arrangement difficult to cope.*

Moreover, the call delay system mentioned by the Secretary just now is often turned off rather than being activated, so staff members have to answer calls continuously. President, today, it should be the Secretary for Labour and Welfare who should be concerned with this question but instead, the Secretary for Home Affairs is attending this meeting to give a reply. May I ask the Secretary if he can reflect this situation to the Secretary for Labour and Welfare, so that the latter can also be concerned about the situation and propose to the HKJC that it should be more generous with the breaks, meaning it would not be necessary to work four hours in order to get a 15-minute or 30-minute break, and see if it is feasible to change the arrangement to half an hour of break for every three hours of work?

SECRETARY FOR HOME AFFAIRS (in Cantonese): I can reflect the Member's view to the Labour and Welfare Bureau. As regards the question of whether or not the existing work arrangement conforms to the OSH Ordinance, the Labour Department has carried out inspections in the past and generally speaking, it is satisfied with the arrangements made by the HKJC. However, I will refer Dr CHEUNG's views to the Labour and Welfare Bureau.

MR TANG KA-PIU (in Cantonese): *President, in fact, the proportion of monthly contract staff and hourly-paid staff is 1:22, so this confirms the public's suggestion that the HKJC is a mean employer good at cutting staff costs. As far as we know, this group of part-time staff members can never meet the "4118" requirement, that is, they cannot accumulate the number of hours worked that would make them entitled to the benefits under the Employment Ordinance. What does this mean? It means that this arrangement has resulted in a very fast turnover of part-time staff. Is there adequate training? We have no way of knowing. Is there sufficient manpower? It is all the more impossible for us to*

know. More importantly, the Member pointed out just now that increases in pool investment amounts were recorded each year and we consider it very problematic to hire a large number of inadequately trained staff members who are given insufficient rest time while performing the task of receiving betting calls

PRESIDENT (in Cantonese): Mr TANG, please ask your supplementary question.

MR TANG KA-PIU (in Cantonese): *in view of this, can the authorities make an undertaking to extend the duration of the breaks during the working hours, as well as increasing the number of breaks?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, of course, I cannot make any undertaking on behalf of the HKJC here, but I can refer the views expressed by Mr TANG to the HKJC for consideration, as well as relaying them to the Labour and Welfare Bureau, so that it can take note of them.

Do increases in pool investment amounts necessarily mean that the manpower of part-time staff has to be increased? The number of race meets has increased and we also know that the HKJC will also increase the number of part-time staff members, but judging from the racing season that ended last year, increases in pool investment amounts did not mean that the number of betting calls also increased accordingly. I have looked at the relevant figures and found that on the contrary, the number of betting calls actually dropped slightly. The increases in pool investment amounts in the last racing season were attributable to the increases in on-track betting and in the number of off-course betting branches rather than an increase in the number of betting calls.

MR KWOK WAI-KEUNG (in Cantonese): *It is obvious that manpower in the betting branches of the HKJC is inadequate. Moreover, a large number of part-time staff are hired in place of full-time staff. We have received some referrals made by trade unions reflecting the fact that some staff members were not allowed to work for even one more day after having worked for two days. Obviously, the HKJC hires these part-time staff members only for two days not because there are only two race days but because it wants to deliberately*

circumvent the "4118" requirement under the Employment Ordinance, so as to evade the provision of the relevant benefits. Moreover, it treats its staff members harshly, and so this is sufficient proof that the HKJC is actually an unscrupulous employer. Has the Secretary ever noticed that in the reply given by him just now, he said that a 30-minute break is provided after working for four hours, whereas a break of only 15 minutes is provided after working for eight hours? May I ask the Secretary what kind of work would make one even more spirited the longer one performs it? Has such an arrangement violated the requirements under the OSH Ordinance? In addition, after staff members have taken a total of 20 minutes of calls, they can only

PRESIDENT (in Cantonese): Mr KWOK, if you have already asked your supplementary question, please sit down and let the Secretary answer it.

MR KWOK WAI-KEUNG (in Cantonese): *I will ask my supplementary question as quickly as possible.*

PRESIDENT (in Cantonese): You have already asked your supplementary question.

MR KWOK WAI-KEUNG (in Cantonese): *I have not yet asked it.*

PRESIDENT (in Cantonese): Was the question asked by you just now not your supplementary question?

MR KWOK WAI-KEUNG (in Cantonese): *What I talked about just now is the actual situation.*

PRESIDENT (in Cantonese): Mr KWOK, if that was not a supplementary question, please do not phrase it in question form.

MR KWOK WAI-KEUNG (in Cantonese): *Thank you, President.*

PRESIDENT (in Cantonese): The time you spent on asking your question has already exceeded the time limit of one minute.

MR KWOK WAI-KEUNG (in Cantonese): *I see.*

PRESIDENT (in Cantonese): Please ask your supplementary question immediately.

MR KWOK WAI-KEUNG (in Cantonese): *All right. What I wish to ask is: Is it reasonable to require workers to take a call every three to six seconds? Can they ask for longer breaks?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): On the question of how long the interval between calls should be for it to be considered reasonable, I do not have the relevant professional knowledge to make a judgment, so I can only refer this view to the Labour and Welfare Bureau and the HKJC.

MISS ALICE MAK (in Cantonese): *President, I believe that today, the Secretary for Labour and Welfare should have been present to answer questions. In view of Members' discussion today on why the workload of part-time staff or monthly contract staff is so heavy, Secretary TSANG can actually see that due to the greater array of methods of betting offered by the HKJC, be it in horse racing or soccer betting, the workload of its staff members has increased as a result. The Secretary talked about inspections just now and how many minutes the HKJC gives them frankly speaking, the standing-in arrangement made by supervisors when staff members on duty need to go to the washroom is non-existent and the call delay system can also be turned off at any time. Therefore, concerning the workload of staff members, although the HKJC has talked about what arrangements would be made in respect of manpower, in reality, they cannot be realized. However, I believe and hope that Secretary*

TSANG can provide assistance, by supervising the HKJC. Even as the HKJC continually introduces a wide array of methods for betting on horse races or soccer matches

PRESIDENT (in Cantonese): Miss MAK, please ask your supplementary question.

MISS ALICE MAK (in Cantonese): *before the Government gives its approval, could the Secretary require the HKJC to increase its manpower, equipment and other complementary facilities in its telebet centres accordingly when introducing various types of new betting methods?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, as the Secretary for Home Affairs, my supervision of the HKJC is mainly related to matters of gambling. As early as two years ago, after consideration, we gave our approval to the HKJC to increase the number of its horse racing sessions and simulcast of overseas races. The HKJC also hired an additional 1 000 or so staff members on account of this. It is true that the increases in jobs and recruitment of additional manpower are some of the reasons for our approval. In this process, we also took into consideration other factors, including whether or not doing so would promote and stoke the gambling trend, and we have struck a balance in this regard. As regards the question of whether or not increasing the gambling methods would immediately lead to an increase in pressure on staff members taking calls in telebet centres, there is no direct and definite relationship between the two because the HKJC also provides other ways of taking bets, such as online betting, rather than solely relying on staff members taking calls in telebet centres to accept bets.

MR POON SIU-PING (in Cantonese): *President, I believe that it is very important to care about the occupational safety of staff members. Just now, the Secretary said that the Labour Department would carry out inspections but according to some staff members in the telebet centres of the HKJC responsible for taking betting calls, after working for more than a decade, their hearing has indeed been impaired. May I ask the Government if it would request or urge the*

HKJC to carry out comprehensive hearing assessments of these staff members responsible for taking calls? Another question that I wish to ask perhaps falls within the ambit of the Labour and Welfare Bureau, that is, can a request for review of the Occupational Deafness (Compensation) Ordinance be made, so as to enlarge its coverage and include these workers who have to take calls for long periods of time?

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, we will refer these views to the Labour and Welfare Bureau and the HKJC.

IR DR LO WAI-KWOK (in Cantonese): *President, I believe this question should not just target the operation of the HKJC's telebet centres because workers in other similar operations, such as those of paging operator centres and taxi pager stations, also have to take calls continually. In view of this, may I ask the authorities if guidelines will be issued to such companies in relation to the arrangements on breaks for this kind of workers and recommend that employers provide hearing assessments and other relevant health checks to their staff members on a regular basis?*

SECRETARY FOR HOME AFFAIRS (in Cantonese): President, I have heard Members' concerns in this regard. Although when hearing them initially, it seems some of them do not fall within my ambit, they are also rational, so I will surely refer Members' views to the relevant authorities.

PRESIDENT (in Cantonese): Third question.

Law Enforcement in Respect of Public Order Ordinance

3. **MR KENNETH LEUNG** (in Cantonese): *Recently, it has been reported by the media that the police arrested 444 protesters last year and prosecuted 54 of them. Apart from the surge in the number of persons arrested as compared to those in previous years, the police prosecuted 45 persons under the Public Order Ordinance (POO), and the number was higher than the total number in the past*

14 years (that is, from 1997 to 2010). Some concern groups have pointed out that the police have changed the approach in handling public processions and assemblies in recent years, from prosecuting protesters mainly for the offences of assaulting police officers or obstructing police officers' execution of duties, to prosecuting protesters by invoking provisions under the POO. These concern groups have further pointed out that the POO was enacted by the colonial government in response to the riots in 1967, and some provisions therein impose very stringent and extensive regulation on public processions, assemblies and personal behaviour and have been in force since then. For instance, any person who in any public place behaves in a manner whereby a breach of the peace is likely to be caused shall be liable to imprisonment for one year; and any person who takes part in an unlawful assembly shall be liable to imprisonment for five years. Moreover, if members of the public take part in an unauthorized public meeting, they shall be liable to a maximum penalty of five years' imprisonment. In this connection, will the Government inform this Council:

- (a) of the reasons for the police prosecuting only 54 of the 444 protesters arrested last year, and whether it has reviewed if the police have abused the power of arrest or have been selective in instituting prosecutions; and list the number of cases in which prosecutions were instituted against protesters in each of the past 10 years by the legislation invoked;*
- (b) whether the police have drawn up law-enforcement guidelines in respect of the POO; if they have, of the details; whether they have specifically instructed police officers to consider as a priority handling public processions and assemblies according to the provisions of the POO, including arresting and prosecuting the persons concerned; if such an instruction has been given, of the reasons for and details of that; and*
- (c) whether the Police had sought legal advice from the Department of Justice (DoJ) on the charges to be laid before instituting prosecutions against the 45 protesters under the POO last year; if they had not, of the reasons for that; given that according to the present prosecution policy, the police are required, to my understanding, to seek legal advice from the DoJ first and obtain the approval of the Deputy Director of Public Prosecutions if they wish*

to institute prosecutions under section 36(b) of the Offences Against the Person Ordinance, whether the authorities will consider imposing the same requirements on cases relating to public processions, public assemblies and POO; if they will not, of the reasons for that?

SECRETARY FOR SECURITY (in Cantonese): President, Hong Kong residents enjoy the freedom and rights of assembly and procession which are protected under the Basic Law and the Hong Kong Bill of Rights Ordinance. The police always handle public meetings and processions in a fair, just and impartial manner in accordance with the laws of Hong Kong. The operational policy of the police is to endeavour to strike a balance by facilitating all lawful and peaceful public meetings and processions on one hand, and on the other hand, reducing the impact of such activities on other members of the public or road users, and to ensure public order and public safety. In exercising their freedom of expression, participants of public meetings or processions should, on the premise of observing the Hong Kong law and without affecting public order, conduct such activities in a peaceful and orderly manner.

Under the POO, any public meeting or procession the attendance of which exceeds the limit prescribed in the Ordinance, that is, public meetings of more than 50 persons and public processions of more than 30 persons, shall give a notice to the Commissioner of Police (CP) not less than seven days prior to the intended event, and it can only be conducted if the CP does not prohibit or object to it. The notification shall cover such basic information as the date of the public meeting or procession, time of commencement and duration, location or route, theme, as well as the estimated number of participants, and so on. The CP may impose condition(s) on a notified public meeting or procession to ensure order of the event and public safety, and the corresponding condition(s) imposed will be stated explicitly in the "letter of no objection" issued to the organizers. Organizers may appeal to the statutory Appeal Board on Public Meetings and Processions (the Appeal Board) if they consider the CP's decision unreasonable. Chaired by a retired Judge, the Appeal Board consists of three other members selected in rotation from a panel of 15 members, can be convened at short notice upon receipt of an appeal application. The Court of Final Appeal pointed out in a judgment that Hong Kong's statutory requirement for notification is widespread

in jurisdictions around the world. It also affirmed that such statutory requirement for notification is constitutional, and is required to enable the police to fulfil their duties by taking reasonable and appropriate measures to enable lawful assemblies and demonstrations to take place in a peaceful manner.

Generally speaking, upon receipt of a notification of a public meeting or procession, the police will maintain an active and close communication with the event organizer to offer advice and assistance. Where necessary, Police Community Relations Officers may also be present during the event to act as a bridge of communication between the organizer and the Field Commander. Participants of public processions should not engage in any behaviour to the detriment of public order or any act of violence. In case the peace and public order are jeopardized, the police have to take decisive actions to restore public order and public safety.

In the past decade (from 2002 to 2011), the annual number of public meetings and processions in Hong Kong was on the rise (from 2 303 events in 2002 to 6 878 events in 2011). The majority of such public meetings and processions were conducted in a peaceful and orderly manner. However, in the past few years, there has been a significant increase in the number of cases involving disturbance of order or other unlawful acts during public order events. Weighing upon the possible repercussion and severity of the situation at scene, the police need to take decisive actions in such cases. Relevant figures in the past decade are at Annex.

A total of 444 protesters were arrested by the police during public order events in 2011, among them 397 were arrested for unlawful assembly, obstructing district trunk routes or unlawful acts during three public order events. On the advice of the DoJ, 54 of them were prosecuted and their charges are also set out at Annex. According to the police internal guidelines, the DoJ's prior advice will be sought if the police intend to press charges against any persons arrested in public order events. They will also seek the DoJ's advice as to which provisions shall be invoked when pressing charges.

According to information provided by the DoJ, decisions of prosecution (by means of the POO or the Offences Against the Person Ordinance) are all

based on the established and open principles in its Statement of Prosecution Policy and Practice, and are free from political, media or public pressure. In considering whether charges should be pressed in accordance with the POO, the DoJ will take into account the same factors as when handling other criminal prosecution cases, that is, whether there is sufficient evidence; whether there is a reasonable prospect of conviction; and if there is sufficient evidence, whether the public interest requires a prosecution to be pursued.

The police will continue to communicate with, and secure the support of, event organizers and take lawful measures so as to ensure public order and public safety during public order events.

Annex

<i>Year</i>	<i>Number of Public Order Events</i>	<i>Number of Public Order Events involving Prosecutions</i>	<i>Number of Persons prosecuted relating to Public Order Events</i>	<i>Prosecution offences</i>
2002	2 303	7	29	Unauthorized Assembly, Assaulting a Police Officer, Obstruction of Public Place, Obstructing a Police Officer in the due execution of his Duty, Behaving in a Disorderly Manner in a Public Place, Desecrating the National Flag
2003	2 705	1	2	Desecrating the National Flag
2004	1 974	1	1	Assaulting a Police Officer, Resisting a Police Officer, Assault Occasioning Actual Bodily Harm
2005	1 900	2	7	Obstruction of Public Place, Unlawful Assembly

<i>Year</i>	<i>Number of Public Order Events</i>	<i>Number of Public Order Events involving Prosecutions</i>	<i>Number of Persons prosecuted relating to Public Order Events</i>	<i>Prosecution offences</i>
2006	2 228	4	7	Assaulting a Police Officer, Obstruction of public place, Criminal Damage, Possession of Offensive Weapon
2007	3 824	4	26	Assaulting a Police Officer, Obstructing a Police Officer in the due execution of his Duty, Obstruction of Public Place, Unlawful Assembly
2008	4 287	4	19	Assaulting a Police Officer, Criminal Damage, Causing Public Nuisance
2009	4 222	3	14	Trespassing upon Property under Public Control, Causing Public Nuisance, Assaulting a Police Officer, Obstructing a Police Officer in the due execution of his Duty, Behaving in a Disorderly Manner in a Public Place, Unlawful Assembly
2010	5 656	10	15	Assaulting a Police Officer, Obstructing a Police Officer in the due execution of his Duty, Criminal Damage, Common Assault, Obstruction of Public Place, Behaving in a Disorderly Manner in a Public Place, Keeping a Place of Public Entertainment without a Licence

<i>Year</i>	<i>Number of Public Order Events</i>	<i>Number of Public Order Events involving Prosecutions</i>	<i>Number of Persons prosecuted relating to Public Order Events</i>	<i>Prosecution offences</i>
2011	6 878	15	54	Behaving in a Disorderly Manner in a Public Place, Common Assault, Unauthorized Assembly, Assaulting a Police Officer, Theft, Unlawful Assembly, Obstruction of public place, Criminal Damage, Possessing Articles with intent to Damage Property, Resisting a Police Officer

MR KENNETH LEUNG (in Cantonese): *According to the figures provided by the police, the percentages of arrests and prosecutions in 2011 and 2010 were 37% and 38% respectively. The Secretary's main reply has not answered part (a) of my main question regarding whether the police have abused the power of arrest or have been selective in instituting prosecutions. I have asked this question because the police have prosecuted only 54 of the 444 protesters arrested in connection with cases involving processions and demonstrations. The prosecution rate was a mere 12%, which was far below the prosecution rate of other crimes. Can the Secretary give a specific reply to this part of my question?*

SECRETARY FOR SECURITY (in Cantonese): *President, of the 444 persons arrested during public order events in 2011, the vast majority (397 persons) were arrested in connection with three public order events — which took place during the anti-budget assembly on 6 March 2011 and after the 4 June candlelight vigil as well as the 1 July procession and demonstration — when a number of demonstrators taking part in unlawful assembly and obstructing district trunk routes were arrested for their unlawful acts. Discounting the number of persons arrested during these three operations, the police had arrested a total of 47 persons*

during other public order events in 2011, which was nearly the same as the figure recorded in 2010.

After consulting the DoJ, the police have prosecuted 54 of the arrested persons, with 32 of them being convicted, and the cases involving the remaining 22 persons are still pending.

Concerning the supplementary question raised by the Honourable Member just now, when arrests are made by the police, police officers must have reason to believe that the relevant persons have committed unlawful acts and that the police must take decisive actions to restore public order and public safety. Furthermore, though I mentioned it just now, I wish to spend a little time to explain this again. Before prosecutions are instituted, police officers will handle cases according to the DOJ's advice. Therefore, there is no question of the power of arrest being abused or selective prosecutions.

MR CHAN CHI-CHUEN (in Cantonese): *President, I have to make a declaration first. I was one of the 444 persons arrested in the processions and demonstrations last year and the 54 persons prosecuted. I was also one of the 45 persons prosecuted by the police under the POO. The case involving me occurred on 1 July last year when the police arrested 138 persons and prosecuted 10 persons, and the cases involving four of them are still being tried in court and the outcome is not yet known. They have to wait until January next year before they know whether they will be sentenced to imprisonment or convicted. End of my declaration.*

I think that the Secretary has not answered part (a) of the question raised by Mr Kenneth LEUNG for he has failed to answer whether the police have been selective in instituting prosecutions. Nevertheless, the question raised by Mr Kenneth LEUNG might not be detailed enough, for he has merely enquired about the prosecution figures over the past 10 years but not the figures of arrests. As a result, a 10-year comparison cannot be made.

In his reply just now, the Secretary said that 40-odd persons remained after deducting 397 persons from 444 persons. Given that this figure was more or less the same as the figures recorded in other years, he said it was evident that there were no selective prosecutions. However, I find his reply absolutely

irrelevant. In the case that occurred on 1 July, for instance, only 10 persons of the 138 arrested persons were prosecuted. This is unexplainable.

My supplementary question is: In handling processions, meetings and demonstrations in the past, the police would in most cases disperse or remove protesters but seldom arrested or even prosecuted them. However, during this year or the previous year, the arrest and prosecution figures rocketed. Is there a change in the direction of the police in handling processions and meetings, and has the yardstick been increasingly tightened?

SECRETARY FOR SECURITY (in Cantonese): Let me answer the first part of the Honourable Member's supplementary question first. Insofar as all prosecution cases are concerned, after arrests are made by the police, the cases will be investigated before their details are submitted to the DoJ. After considering the merits of these cases, the DoJ will give instructions according to the established principles of the Statement of Prosecution Policy and Practice, and the police will institute or not institute prosecutions according to the DoJ's instructions. Hence, there is no question of selection in the prosecution procedure. All cases will be handled in accordance with the legal advice of the DoJ received.

Furthermore, the Honourable Member mentioned another issue concerning arrests. As I explained just now, 444 persons were arrested in 2011 mainly because of the serious impacts of the three events on traffic and order at that time. On one occasion, traffic was held up for up to seven hours. Under the circumstances at that time, the relevant persons continued to engage in unlawful acts despite the warning issued by the police over an extended period. Hence, the police had to take actions.

Please allow me to cite a remark made by a Judge after hearing one of the cases last year, which read as follows, "According to the spirit of the rule of law, no one can be above the law, whether they are members of the public, demonstrators or police officers. Another constitutional responsibility of the Court is to clamp down on the unlawful acts arising in the exercise of the freedom of speech or during processions or meetings to ensure the effective exercise of the freedom of speech and the freedom of assembly. The several defendants again believed that they could override the Court of First Instance and the Court of Appeal. They first violated the law and then refused to accede to the reasonable order of the Police. What is more, they ordered the marchers to charge the

police cordon line and claimed that the police should ultimately be held accountable for the incident. The Court considers their acts and mentality peremptory and unreasonable."

The Court of Final Appeal also made these two points in handling an application for leave of appeal in connection with a case involving disturbance of order in a public gathering — President, please allow me to quote the points in English. Here is the first point: "Both Magistrate Mr Marco LI and on appeal Barnes J noted tendency for more physically aggressive means to be adopted during public protests". The second point reads, "We wish to emphasize that the grant of leave in this case must not be taken to suggest that the Court will condone non-peaceful protests" (end of quote).

Hence, broadly speaking, the police must, on the one hand, exert its utmost to facilitate meetings and processions but on the premise that they must be conducted in accordance with the law and in a peaceful manner, since it is incumbent upon the police to protect the rights of other people. While the police will endeavour to strike a balance, law enforcement will be taken should there be unlawful acts.

PRESIDENT (in Cantonese): I would like to remind Members and the Secretary again to be as concise as possible in asking questions and giving answers, so that more Members can raise supplementary questions.

MS CYD HO (in Cantonese): *President, the provisions of the Police Force Ordinance and the Offences Against the Person Ordinance in connection with the offence of Assaulting a Police Officer are different. In the past, the provisions of the Police Force Ordinance in connection with assaulting a Police Officer were applicable to meetings and demonstrations, whereas the provision of the Offences Against the Person Ordinance in connection with assaulting a Police Officer, that is, section 36(b), might be applicable to the assaulting of a Police Officer during armed criminal offences. There is a very significant difference between the penalties for the two, with the penalty for the latter being much heavier. In June 2010, a person surnamed YEUNG was prosecuted for demonstrating outside the Liaison Office of the Central People's Government in connection with the sentencing of TAN Zuoren, a human rights activist. Initially, he was charged with assaulting a Police Officer under section 36(b) of the Offences Against the*

Person Ordinance but, on 18 October, a week before his trial, he was charged with a lighter offence of assaulting a Police Officer under the Police Force Ordinance.

May I ask the Secretary whether the switch to another Ordinance to press charges before trial implied that the police merely intended to effect intimidation arbitrarily without prudent consideration when the prosecution was initially instituted under 36(b) of the Offences Against the Person Ordinance? Was it the intention of the police to intimidate the ordinary public and deter them from participating in meetings or to impose heavy penalties on them should they be incriminated?

SECRETARY FOR SECURITY (in Cantonese): President, a detailed discussion was previously held in the Panel on Security on which Ordinance should be invoked to prosecute arrested persons, particularly those involving the offence of assaulting a Police Officer. The police also consulted the DoJ on matters relating to prosecutions instituted in connection with assaulting a Police Officer and an internal document was issued in accordance with the legal advice of the DoJ to request the police to seek legal guidance before invoking section 36(b) of the Offences Against the Person Ordinance to institute prosecutions.

Furthermore, in April last year, the DoJ also instructed all lawyers to obtain the approval of the Deputy Director of Public Prosecutions in handling cases involving assaulting a Police Officer to further ensure that 36(b) of the Offences Against the Person Ordinance would be invoked only in dealing with appropriate cases. Certainly, if new information is obtained when or before a case is heard, the police and the DoJ will consider which Ordinance is more appropriate to be invoked to institute prosecutions having regard to new circumstances. Prosecutions emphasize professional judgment and, unlike what the Honourable Member thinks, the police will absolutely not seek or attempt to deter members of the public by charging them with a more serious offence.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MS CYD HO (in Cantonese): *The Secretary has not answered my question. Concerning the relevant charge in the case cited by me just now*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MS CYD HO (in Cantonese): *..... the charge was not revised until the last minute. Does this reflect that the original intention of instituting prosecutions under 36(b) of the Offences Against the Person Ordinance was reckless?*

PRESIDENT (in Cantonese): Secretary, do you have anything to add?

SECRETARY FOR SECURITY (in Cantonese): President, I have explained that we will decide on which Ordinance to invoke to institute prosecutions in accordance with the instructions obtained from the DoJ. Certainly, before a case is heard, if there are new circumstances, evidence or justifications, we are obligated to examine the possibility of instituting prosecutions for other more appropriate offences. I believe this issue must be dealt with in any prosecution cases, and it is very common for charges to be revised, too.

PRESIDENT (in Cantonese): Besides the Member who raised the main question, only two Members had the opportunity to raise supplementary question to follow up this oral question. Although seven Members are still waiting for their turn to ask questions, the time we have spent on this question has exceeded the 22 minutes stipulated in Rule 9A of the House Rules. Fourth question.

Handling of Persons with Intellectual Disabilities by Front-line Officers of Disciplined Forces

4. **MR CHEUNG KWOK-CHE** (in Cantonese): *President, it has been reported that in the evening of 11 October this year, police officers from the Police Tactical Unit of the New Territories South Region intercepted a man with moderate intellectual disabilities on a street in Kwai Chung District. As they were unable to communicate with the man, the police officers took him to the*

police station. Subsequently, some police officers allegedly fabricated statements, locked the man up in a detention cell of the police station and made preparations for repatriating the man to the Mainland as an illegal entrant. Fortunately, on the following day, a more senior police officer discovered that the man had newly arrived to settle in Hong Kong and had been reported missing by his family members in the afternoon of 11 October. On the other hand, following the incident in which YU Man-hon, an autistic boy who went to the Mainland on his own through Lo Wu Control Point in August 2000, has gone missing since then, the authorities had stated that they would enhance the awareness of the disciplined forces, the front-line officers in particular, in dealing with persons with intellectual disabilities (PIDs). In this connection, will the Government inform this Council:

- (a) whether the Hong Kong Police Force and the Immigration Department have, at present, drawn up any codes of practice on the questioning of PIDs and the taking of statements from them; if they have, of the details; if not, the reasons for that; whether arrangements have been made for relevant professionals (such as social workers) to assist them in handling such tasks; if so, of the details; if not, the reasons for that;*
- (b) of the number of PIDs who were taken to police stations for interrogation in each of the past three years, together with a breakdown by type of cases; how the police handled such cases; and*
- (c) of the training provided by various law-enforcement departments to their front-line officers on handling PIDs subsequent to the YU Man-hon incident; whether the authorities will review and further strengthen staff training, as well as improve the relevant procedures and guidelines, so as to ensure that the front-line officers of disciplined forces can handle the special needs of PIDs more effectively in discharging duties; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR SECURITY (in Cantonese): In handling cases involving persons with physical disabilities or special needs (including mentally incapacitated persons) (MIPs), our law-enforcement agencies shall adhere to internal guidelines of their respective departments, taking extra caution and

adopting measures to meet their specific requirements. In addition, front-line officers are required to receive training to ensure that they have the required awareness and sensitivity in dealing with such persons.

My reply to the Member's question is as follows:

- (a) Police officers and immigration officers shall follow the internal guidelines of their respective departments when conducting enquiries or taking statements. It is specified in such guidelines that, as far as practicable, any person suspected or known to be an MIP, whether suspected of a crime or not, shall be interviewed or have a statement taken from him by police officers/immigration officers in the presence of one of the following appropriate adults:
- (i) a relative, guardian or other person responsible for his care or custody;
 - (ii) someone who has experience in dealing with an MIP but who is not a police officer/an immigration officer nor anyone employed by the Hong Kong Police Force (HKPF)/Immigration Department (ImmD), such as a social worker; or
 - (iii) failure of either of the above, some other responsible adult not being a police officer/an immigration officer or anyone employed by the HKPF/ImmD.

The police officers/immigration officers shall clearly explain the purpose and procedure of such an interview to the appropriate adult or any relevant persons present. In the situation where an MIP elects to give a written statement, the appropriate adult shall be invited to read over and sign any statement taken down by the police officers/immigration officers in their presence.

In case an officer at the rank of Superintendent of Police/Chief Immigration Officer or above considers that any delay in an interview of a person suspected to be an MIP will involve an immediate risk of harm to persons or serious damage to property, he may authorize the person's interview in the absence of an appropriate

adult. Any such interview shall cease once the immediate risk has been averted.

Furthermore, whenever an MIP is involved in an offence, whether as a victim or a witness, the police officers may take statement by way of a video recorded interview and such recording may be used in criminal proceedings as evidence-in-chief under the Criminal Procedure Ordinance. An officer in charge of the case may seek assistance from clinical psychologists of the Social Welfare Department when conducting video-recorded interviews with, or an assessment of, the MIPs.

In case an MIP's identity cannot be confirmed and is suspected that the person is a missing person, the police officer/immigration officer shall verify via the internal communication system or with the HKPF's Missing Person Unit to ascertain if the person is a missing person.

- (b) The police do not maintain a breakdown of cases involving MIPs. However, as stated in my reply to part (a) of the question, a police officer shall adhere to specified procedures when following up cases that may require an interview or statement-taking with a person suspected or known to be an MIP.
- (c) Law-enforcement agencies have put in place training and clear guidelines to assist their front-line officers in serving and dealing with MIPs.

Since the YU Man-hon's incident in year 2000, the ImmD has stepped up sensitivity training for its front-line staff in handling persons with physical/mental disabilities or communication difficulties. From 2000 to 2002, upon the ImmD's invitation, the Equal Opportunities Commission (EOC), Parents' Association of Pre-School Handicapped Children, Hong Kong Blind Union, Hong Kong Society for the Deaf, Rehabilitation Alliance Hong Kong and relevant professionals in the academic field of the City University of Hong Kong conducted seminars and instructor training courses for frontline staff, covering issues such as understanding and interacting

with persons with physical/mental disabilities or communication difficulties. Drawing reference from the contents of the above training courses and views of relevant professional organizations, the ImmD has enhanced its internal training programmes. All serving front-line staff and new recruits are required to participate in such programmes to augment their awareness and sensitivity in dealing with these persons. The ImmD has uploaded onto its intranet rules and guidelines for handling cases involving persons with physical/mental disabilities, as well as learning materials from the training courses co-organized with the EOC for staff's reference.

On another front, the police have formulated guidelines and procedures for dealing with MIPs. Such guidelines and techniques are incorporated into the induction training courses for probationary inspectors and recruit police constables. Now all front-line officers have received such training and will exercise caution when handling cases involving such persons. The guidelines and procedures are under regular review to ensure that police officers are professionally competent to handle and investigate each and every case.

MR CHEUNG KWOK-CHE (in Cantonese): *We can note in the written main reply by the Government that the relevant guidelines, training and even in-service training are all very comprehensive and given this, then there should not be any possibility of the occurrence of any incident like the one mentioned just now. I am sure something must have gone wrong and that may include the question of whether or not the authorities have provided the latest information to the front-line officers from time to time.*

May I ask the Government whether it would liaise with various organizations for persons with disabilities? This is especially true when we know that persons with mild or moderate intellectual disabilities do not look any different in appearance from ordinary persons. This is particularly the case with autistic persons. But once we came into contact with them and talked with them, we would be able to sense it. In view of this, can we, for example, after getting the consent of the person concerned, and if we can allow the front-line officers to use video, that is, video-recording

PRESIDENT (in Cantonese): Please raise your supplementary question.

MR CHEUNG KWOK-CHE (in Cantonese): *and record their contact with the front-line officers directly and at close range, then there would be no need to pursue the case after something has happened.*

SECRETARY FOR SECURITY (in Cantonese): I am very grateful to Mr CHEUNG for the advice tendered. We have provided relevant guidelines to all our front-line staff, including police officers, immigration officers and other officers of disciplined forces who may come into contact with members of the public. However, I believe there is room for improvement in every set of guidelines. And as I have said in the main reply, the ImmD has liaised with many relevant organizations and the relevant guidelines are formulated with reference made of their views.

I will convey Mr CHEUNG's views to all the relevant disciplined forces for their consideration to see if there are any better ways to perfect the existing training system. As Mr CHEUNG has said, for persons with mild or moderate intellectual disabilities, it would be difficult for us to distinguish them by their appearance and we may not tell if they are such persons even if we have talked with them for a while. If we can do more to enhance our sensitivity in this respect, I am sure it will be helpful to all our front-line colleagues in the enforcement agencies. I will talk with the heads of the relevant departments and ask them to address further the views put forward by the Member.

MR GARY FAN (in Cantonese): *President, Mr CHEUNG Kwok-che's main question has mentioned the fabrication of statements by police officers. I would like to ask the Government a question about this point. In 2007, the police invoked the POO and prosecuted a demonstrator in the incident concerning opposing the lifting of a ceiling on the rentals of public housing units. The said demonstrator noticed in the trial that a police officer was alleged to have fabricated statements and in the end the person was not convicted. Then the demonstrator reported this to the police and he was instructed by the police to lodge a complaint with the Complaints Against Police Office (CAPO). But the CAPO did not open a file and handle the complaint.*

May I ask the Government, if any member of the public, irrespective of whether he is a demonstrator in a march to lodge some petition or not and if he finds that a police officer has fabricated statements, how it will handle this sort of cases? To which department can the person lodge a complaint?

PRESIDENT (in Cantonese): Mr FAN, your question is not related to the main question, please follow this up through other channels.

DR FERNANDO CHEUNG (in Cantonese): *As a matter of fact, some very professional knowledge is required to tell whether or not a person is mentally incapacitated. This is because the definition of it is very complicated and it may include many kinds of persons, such as those suffering from Alzheimer's disease, dementia or what is commonly called senile dementia, some persons with intellectual disabilities, some mental patients or persons who for various reasons suffer from brain damage, and so on. I am sure officers of disciplined forces have not received this kind of detailed training. The Secretary said in the main reply that during the period from 2000 to 2002, various relevant organizations were invited to engage in exchanges with the disciplined forces, but that happened more than a decade ago. May I ask the Secretary, apart from uploading the relevant information onto the intranet of the ImmD, whether the authorities would continue to engage in more of this kind of exchanges with the relevant organizations so that they can provide more updated information than that available to the authorities to the disciplined forces, thus enabling the forces to handle such events properly?*

SECRETARY FOR SECURITY (in Cantonese): I am grateful to Dr CHEUNG for the advice. As I have said earlier in reply, we all want to see constant improvements made to the guidelines. With respect to the advice tendered by Dr CHEUNG, I will ask the heads of departments to consider it and see what can be done to improve the existing guidelines which have become somewhat outdated. This will enable the front-line officers to be always sensitive and on the alert for such matters.

MR PAUL TSE (in Cantonese): *President, ever since the SARS incident in 2003, entrants to Hong Kong from the Mainland have increased by tens of times. If we still use the background training dated back to 2002 to provide training to our officers to cope with the situation now, it would be very much inadequate. May I ask the Secretary, apart from providing this kind of passive information for reference on the intranet, how much time would each officer receive as training? Will they receive training on an ongoing basis? Is there any special task force, especially in the ImmD, to handle such cases so that the problem can be ameliorated?*

SECRETARY FOR SECURITY (in Cantonese): The training received by officers of the ImmD is a special topic and I do not have any figures concerning the hours of training they receive, and so on, at hand. However, I can tell Members that the ImmD attaches great importance to such matters and as we can see, after 2000 and despite the large number of people coming to Hong Kong, we are lucky enough to say that no similar incident has ever occurred. The police will undertake a review of the relevant procedures and training each year and police officers will be updated of such information on a regular basis.

As I said in reply to the supplementary questions raised by two other Members, they have tendered some very good advice and we will examine the relevant matters as when necessary. We will look into the training we now give to all front-line officers including new recruits to find out what can be done more. This is part of our regular work and we will keep on doing it.

DR KWOK KA-KI (in Cantonese): *President, this is actually a grave matter. This is because some front-line police officers cannot identify someone who has intellectual disabilities and someone has fabricated statements. After hearing the lengthy main reply from the Secretary, I got an impression that he considers that there is nothing wrong with it. May I know clearly, with respect to this incident, whether the front-line officers made any arrangements to have a relative of the person concerned, or a person who has experience in dealing with an MIP or some other responsible adult in presence to help identify the MIP? If not,*

what are the reasons? If yes, then why did this fabrication of statements happen and the MIP was almost repatriated to the Mainland?

SECRETARY FOR SECURITY (in Cantonese): President, the police attach great importance to this incident and some internal investigation is presently underway. I am not in any position to disclose the details here because no conclusion has been reached regarding the said investigation. However, I can say that, first, the police will deal with the case seriously if it is found that any officer did not act according to the internal guidelines concerned; second, I would like to point out that if any person is found without any personal identification papers, the police will check the relevant information system to see if that person is a missing person. With respect to this particular case, the newspapers have reported that the police had found through the prescribed procedures and from the internal information that that missing male was arrested earlier by the police for having no personal identification papers and was later found and returned to his family safe and sound. So, from another perspective, the internal guidelines and the relevant procedures of the police have served their due purpose in enabling us to find the person and verify his true identity.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

DR KWOK KA-KI (in Cantonese): *President, it is said very clearly in my supplementary question that*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

DR KWOK KA-KI (in Cantonese): *..... I was asking the Secretary, have the police followed the guidelines as listed in paragraphs (i), (ii) and (iii) of part (a) of the main reply in handling this incident? If not, what are the reasons?*

SECRETARY FOR SECURITY (in Cantonese): Since the police are investigating the incident, it would not be appropriate for me to disclose anything before the findings of the investigation are obtained.

MR PAUL TSE (in Cantonese): *President, we all know that more time and resources are required to train all the front-line officers, will the authorities make reference to how sex violence cases are handled, that is, to form a specialized team of officers with more training in this aspect so that they can serve their due function as when necessary? If not, what are the reasons?*

SECRETARY FOR SECURITY (in Cantonese): All the front-line police officers do have a chance to come into contact with PIDs. So we must provide the relevant training to all members of the police. If only a minority of the colleagues is trained, it may be difficult to find those colleagues who have the relevant expertise should any incident happen. However, the police have some guidelines which say that should any problem of this sort happen, help from professionals such as social workers or clinical psychologists should be sought. In other words, the police will seek the assistance of professionals in handling these cases as when necessary. A more important point is that all the front-line officers should be on the alert. They should be able to notice whether or not the persons concerned have intellectual disabilities and follow up the cases. As some Members have said when raising their supplementary questions, many persons with mild or moderate intellectual disabilities are no different from ordinary persons in appearance.

When handling any case, the police officers cannot assume on seeing a certain person that he will need any special treatment because he has problems of this sort. So I would think that the existing guidelines should be reviewed. A number of Members have raised valuable suggestions earlier and we will follow them up. If any assistance from professionals is required, we will certainly seek help from them.

PRESIDENT (in Cantonese): Fifth question.

Taking Out Employees' Compensation Insurance Policies

5. **MR LEUNG YIU-CHUNG** (in Cantonese): *Recently, quite a number of.....*

(Mr LEUNG Yiu-chung began to ask his question but with a coarse voice)

PRESIDENT (in Cantonese): Mr LEUNG, would you like another Member to ask the question for you?

MR LEUNG YIU-CHUNG (in Cantonese): *Yes.*

PRESIDENT (in Cantonese): I now give my consent for Mr CHEUNG Kwok-che to ask this oral question for Mr LEUNG Yiu-chung.

MR CHEUNG KWOK-CHE (in Cantonese): *I now ask the main question for Mr LEUNG Yiu-chung. Recently, quite a number of employees from the catering and construction industries, and so on, as well as drivers of green minibuses have relayed to me that their employers have not taken out employees' compensation insurance policies (commonly known as "EC insurance") for them on the pretext that the insurance premiums are high or insurance companies have declined to underwrite such policies, and their employers have even forced them to become self-employed persons. In this connection, will the Government inform this Council:*

- (a) *of the number of employers prosecuted for not having taken out EC insurance for their employees, and the number of those convicted as well as details of the penalties imposed on them, in the past two years;*
- (b) *whether the Government at present monitors the situation of high insurance premiums for EC insurance and insurance companies declining to underwrite such policies; if it does, of the details; if not, the reasons for that; and*

- (c) *whether the Government will consider afresh setting up a central employees' compensation fund to replace the current arrangement of employers having to take out EC insurance with insurance companies; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, the Employees' Compensation Ordinance (ECO) aims to protect employees who die or sustain injury from accident arising out of and in the course of employment, or suffer from prescribed occupational diseases. According to section 40 of the ECO, all employers are required to take out EC insurance to cover their liabilities both under the ECO and at common law. Otherwise, they shall not employ any person in any employment.

An employer cannot evade his liabilities under labour legislation by labelling his employees as self-employed persons unilaterally. Whether there exists an employer-employee relationship depends on the actual circumstances of the case. Should an employer make a sub-contractor contract with his employee in an attempt to change the latter's identity to be a self-employed person, if in fact there exists an employer-employee relationship, the Court can still confirm the employer-employee relationship and the employer is still required to fulfil his responsibility under the ECO, which includes taking out EC insurance and paying compensation to an employee who sustains injury or dies from accidents arising out of and in the course of employment.

My reply to the three parts of the main question raised by Mr LEUNG Yiu-chung is set out below:

- (a) Labour Inspectors of the Labour Department actively conduct inspections to workplaces of various industries and carry out targeted enforcement actions to ensure that employers comply with the requirement of taking out EC insurance under the ECO. If and when there are suspected offences, evidence is proactively collected to institute prosecutions against law-defying employers. In 2010 and 2011, there were 1 988 convicted summonses involving offences against the requirement of taking out EC insurance under the ECO. Among the sentences imposed by the Court, the maximum penalty was community service order of 120 hours with a fine of \$2,000, whereas the maximum fine imposed was \$20,000.

- (b) Insurance is a risk assessment industry. Insurance companies will underwrite and determine premium levels and policy terms and conditions according to the risks being underwritten, such as accident rate, quantum of claims paid and past accident records, and so on.

Insurance policy is a contract between the insurance company and the policyholder. It is a commercial decision of insurance companies to determine premium levels and policy wording having regard to market conditions. Through free market, open competition and enhanced risk management, premiums and underwriting capacity will be appropriately adjusted and improved. Pursuant to section 26(3A) of the Insurance Companies Ordinance, the Administration is debarred from intervening into premium levels and policy wording.

We fully understand the impact of premium increase or difficulties in procuring insurance on the part of employers. With the Administration's encouragement, the Hong Kong Federation of Insurers has since 2007 set up the Employees' Compensation Insurance Residual Scheme (ECIRS) to provide last-resort cover to employers who have encountered difficulties in taking out EC insurance. Any employers who have difficulties in procuring EC insurance may contact the ECIRS Bureau for assistance.

- (c) Currently, Hong Kong's employees' compensation system is based mainly on the ECO which adopts the system that individual employers are responsible for their own employees. An employer must, in accordance with the requirements of the relevant legislative provisions, take out EC insurance with an authorized insurance company. This is to ensure the employer's ability to pay employees who are injured at work the compensation as stipulated under the ECO as well as the compensation awarded by court under common law. The existing system also encourages employers to adopt proactive measures to prevent work accidents, as the premium payable is directly related to their occupational safety and health performance and the measures adopted to reduce risks at work.

In fact, the ECIRS launched by the insurance industry in 2007 has acted as a market of last resort to ensure that employers in various industries (particularly high-risk industries) are able to acquire EC insurance. The ECIRS has been operating smoothly since its establishment. As at 30 November 2012, the ECIRS Bureau has received 388 applications. Of these, 134 were offered EC insurance by insurance companies under the ECIRS during circulation of the applications among ECIRS members; 164 were provided EC insurance by the ECIRS; two were withdrawn by the employers; two were refused as the covers sought did not fall under the category of EC insurance; and the remaining 86 applications are being vetted.

As regards the establishment of a central employees' compensation fund, the Legislative Council has detailed discussions on the subject on many occasions. The Administration has also reiterated that as the cost-effectiveness of a central employees' compensation fund is yet to be known and given that the current private industry mode of operation is functioning well, the relevant system can better suit Hong Kong's current situation. Hence, no drastic changes should be made. We will continue to maintain close contact with the relevant stakeholders and institutions to keep in view if and how the current system can be improved.

MR CHEUNG KWOK-CHE (in Cantonese): *President, I ask a follow-up question for Mr LEUNG Yiu-chung. The Government said in the main reply that prosecution was instituted against close to 2 000 employers who were suspected of breaching the ECO. I think there may be even more cases which have not yet been substantiated or prosecuted. In other words, the situation has been worsening but the Government has all along used the ECIRS as a shield. In fact, the industries have long called for the setting up of a compensation fund and the Government has invariably replied that its cost-effectiveness is yet to be known. I would like to ask this question for Mr LEUNG Yiu-chung: How certain should the cost-effectiveness be known before the Government is willing to set up a compensation fund?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Labour and Welfare, please.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I thanks to Mr CHEUNG Kwok-che for asking this follow-up question for Mr LEUNG. In fact, we have had in-depth discussions on the establishment of a central mechanism in the Legislative Council on many occasions. As Members may recall, in 2007 before the ECIRS was introduced, we spent two years exploring this issue in detail in the Panel on Manpower, and discussions were held in depth. Our analysis at the time was that the cost-effectiveness of a central mechanism would depend on various factors and require an enormous operational structure. At that time, we conducted a lot of studies and held discussions repeatedly. Eventually, the Government proactively encouraged the Hong Kong Federation of Insurers (HKFI) to set up the existing ECIRS mechanism to ensure that last-resort support is provided and that employers can certainly take out insurance.

So, the thrust of the main reply is simple, as it tells us not to have a false impression that a central mechanism can obviously operate smoothly and save money or the premium will definitely be less expensive. Even if there is a central mechanism, it is still necessary to consider a host of factors, such as the risks involved, the premium levels, and so on. The *modus operandi* will actually remain unchanged, only that the Government will be responsible for operating it. Therefore, our conclusion back then was that the market-based mechanism had merits indeed and we should continue to refine and perfect it.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR CHEUNG KWOK-CHE (in Cantonese): *President, for Mr LEUNG Yiu-chung, I would like to know more about*

PRESIDENT (in Cantonese): Please repeat the part that you think the Secretary has not answered.

MR CHEUNG KWOK-CHE (in Cantonese): *The Government still has not told us the criteria used for measuring its cost-effectiveness to justify the view that a central mechanism is not feasible. With just a few lines in the Government's reply, we actually cannot see whether it is truly feasible or not feasible.*

PRESIDENT (in Cantonese): Please sit down. Secretary, insofar as cost-effectiveness is concerned, what is the standard? Do you have anything to add?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, as I said earlier on, a central mechanism involves many things. For instance, it basically requires an enormous operational structure. Besides, will the premium definitely be less expensive? This is questionable, because a large part of it will remain to be market-based in its operation. The only difference is that it will be centrally managed by the Government. Before 2007, the focus of our discussion was whether such a mechanism would certainly be cost-effective, and the conclusion was that its cost-effectiveness was questionable. So, this is what we mean by saying that its cost-effectiveness is yet to be known. This is our view at the time.

MR TOMMY CHEUNG (in Cantonese): *Sometimes when I hear the remarks made by the many Directors of Bureau, I would wonder if they are kind of inept, including this Director of Bureau here. Just take a look at the EC insurance. In the catering industry, for instance, when I joined the Legislative Council in 2000, there were 15 000 cases of compensation. According to the figures provided to us in the Panel on Manpower yesterday, the number of these cases dropped from some 8 000 to some 7 000 (7 100 cases) during the period between 2008 and the first half of 2011. Besides, the accident rate per 1 000 workers also dropped from the past 38.7% to 29.5% this year. But Secretary, do you know for how many folds has the insurance premium increased for the catering industry? We would be lucky if the premium is just doubled, or even a three-fold increase is still barely acceptable. But we are talking about a five-fold or*

six-fold increase, and in many cases, no compensation claim has ever been made before and yet, we are forced to pay a higher premium.....

PRESIDENT (in Cantonese): Mr CHEUNG, please ask your supplementary question.

MR TOMMY CHEUNG (in Cantonese): *President, it is rare that both Mr LEE Cheuk-yan and I see eye to eye with each other and agree to the setting up of a centralized labour insurance mechanism by the Government. We are not saying that the insurance premium can definitely be lowered when its operation is taken over by the Government, but if we do not try doing it, how do we know whether or not it can be brought down a bit? And, a key point is that I do not believe the insurance companies are suffering a loss.*

Can the Secretary instruct his colleagues to take a look at the premium charged by insurance companies, especially the premium payable by the catering industry which I represent, and find out why the premium for EC insurance is still increased by several times even for companies which have not made any claim for compensation? The Government has enacted legislation to enable insurance companies to levy charges while we have no choice but to fall prey to a blatant robbery.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thanks to Mr CHEUNG for his question and views. We are aware of the difficulties in taking out EC insurance, and Members will understand that we are concerned about this issue, and we have all along maintained close liaison with the HKFI and the Office of the Commissioner of Insurance (OCI) to enable small and medium enterprises to take out EC insurance conveniently by all means.

The recent rise in EC insurance premium is due to a number of reasons. First, generally speaking, the operation of EC insurance has indeed recorded a loss. The relevant statistics are not made up by us, but are provided at the request of the OCI because the OCI needs these statistics for making analyses. Second, it is also due to the withdrawal of a large insurance company from the market some time ago. Owned by a major bank, this company withdrew from the market because losses were recorded, and this has created a certain impact.

Third, the industries have a lot of problems too. When taking out insurance policies through insurance agents, some employers may not take out insurance for all the employees. They may understate the actual number of employees, in order to pay less in insurance premium. This is a bad habit in the industries and it must be changed indeed. Certainly, we are also concerned about the overall premium increase and have reflected the situation to the HKFI. The existing ECIRS mechanism is playing its role in providing last-resort cover to employers when they encounter difficulties in taking out EC insurance. For instance, employers whose applications have been rejected by at least three insurance companies engaging in EC insurance business can seek assistance through this mechanism. The objective is to ensure that they can take out EC insurance.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR TOMMY CHEUNG (in Cantonese): *President, the Secretary has not answered my question. The ECIRS is "dud".....*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MR TOMMY CHEUNG (in Cantonese): *When restaurants cannot pay six times the previous premium to take out EC insurance, the insurance companies will then roll out schemes at a premium being five and a half times of.....*

PRESIDENT (in Cantonese): Please repeat your supplementary question.

MR TOMMY CHEUNG (in Cantonese): *I am asking him to.....My supplementary question is this. Can the Secretary look into why the EC insurance premium for the catering industry can be increased by several times? The Secretary cannot simply pass the buck to another department, saying that the ECIRS can solve the problem.*

PRESIDENT (in Cantonese): Secretary, can you answer Mr Tommy CHEUNG's supplementary question?

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, I am glad to add one point. The insurance companies will definitely check the past records of any potential policyholder in order to find out whether any accident has happened before. This is like taking out car insurance, as they will definitely check and find out whether there was any previous incident of car crash. Therefore, the insurance coverage and premium level in each case is different and no generalization can be made. Having said that, our focus is on mitigating and resolving the problem in the event that employers encounter difficulties in taking out EC insurance. President, this is the starting point of our work.

PRESIDENT (in Cantonese): Mr CHEUNG, you have to bring those cases to the attention of the Secretary on other occasions.

MR CHAN KIN-POR (in Cantonese): *President, in recent years, we have often read reports about employers forcing employees to become self-employed persons. But in fact, even if employees have become self-employed persons and if they continue to maintain an employer-employee relationship in effect, the Court can rule that the employer should make compensation to the "bogus self-employed person" who is injured, in which case the loss suffered by the employer will definitely outweigh the gain and the employer may even have to go bankrupt as a result and face prosecution for not taking out insurance.*

May I ask the Government what measures are in place to make that all employers in Hong Kong become aware of the serious consequences of "bogus self-employment" and the fact that they even have to make a huge compensation for forcing their employees to become "bogus self-employed persons". President, please allow me to add just one point. The reasons why the EC insurance premium has increased by several times were mentioned earlier and more often than not, this is due to an inadequate number of the insured. In recent years, the insurance industry has been "catching up" with the premium rates very seriously, thus resulting in an increase in the premium.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, thanks to Mr CHAN for the question and views. We are very concerned about the situation of "bogus self-employment" and in this connection, we have carried out publicity, education and promotional work very seriously. Apart from producing television announcements in the public interest, we have also published pamphlets. Various trade unions and district offices of the Labour Department carry publicity materials to remind employees of their own interests and also remind employers not to defy the law, for the loss will only outweigh the gain. The employers may think that "bogus self-employment" can be a solution but when a problem arises, not only will they have to pay all the compensation and fees, they may even face prosecution. We have been continuously stepping up efforts to put across this message.

MR FRANKIE YICK (in Cantonese): *President, I think the Secretary has not answered the question, because the problem has not been solved. Had the problem been solved, Mr LEUNG Yiu-chung's question would not have been raised today.*

The Government said that if employers have difficulties in taking out insurance, the Government has the solution and that is, there is the ECIRS to enable employers to take out EC insurance. But as Mr Tommy CHEUNG said earlier, the premium payable by the industry represented by him has increased by five times, while the premium payable by our freight forwarding industry has even risen by 10 times. What can be done to resolve the problem of employers not being able to take out insurance? Employers either have to fold up their business or discuss with their employees, asking them to make concessions by becoming self-employed persons, so that both sides can continue to make a living.....

PRESIDENT (in Cantonese): Please state your supplementary question.

MR FRANKIE YICK (in Cantonese): *My supplementary question is: If the Administration is unwilling to set up a central employees' compensation fund, what can it do to mitigate or resolve the problem concerning these self-employed persons?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, there are basically several problems that we are dealing with now. First, the most pressing task is to ensure that the ECIRS mechanism of the HKFI can provide insurance service to employers when the latter encounter difficulties in taking out EC insurance. This is most important. An employer who engages employees to work for him without taking out insurance for them is in breach of the law. This is the first point.

Second, it is necessary to tackle the problem at source, because insurance is, after all, related to the performance of the insured. Take the scaffolding trade as an example. As Members may know, the insurance premium for a senior scaffolding worker is \$99,000 a year, but under the OSH Star Enterprise scheme arranged by us in conjunction with the Occupational Safety and Health Council, an employer who has passed the accreditation, complied with safety procedures and provided training to employees will be issued a safety licence and if this employer has shown good performance, a 50% premium discount can be arranged by the HKFI. A successful example is an employer who has taken on only five scaffolding workers, which is not a large number of workers. The employer can save over \$100,000 to \$200,000 a year, which is a large amount of money. As Members may be aware, if the premium for one worker costs \$99,000, a 50% discount means a saving of some \$40,000 and the money hence saved for five workers altogether will total \$200,000. This shows that it is indeed very important to implement measures to ensure occupational safety.

The case of the catering industry is just the same. Although there may not be a lot of fatal accidents, there are many incidents of work injuries, such as knife cuts, slip and fall accidents, and so on. Therefore, if improvement can be made to the workplace at source, the premium can naturally come down. We will certainly carry out education and publicity work, but it is most important to provide last-resort cover for employers. There must be a support network to ensure that employers can take out insurance, and this is the most important point.

MR ALBERT CHAN (in Cantonese): *President, there are two basic problems. The most important one is that many small companies, especially transport companies, cannot take out EC insurance. Their premium has increased by three to four times and in some cases, the premium increase is so steep that it has imposed unbearable financial pressure on the company. The second problem is the self-employment arrangement. Many workers do not enjoy labour*

protection because of misunderstandings and when disputes arose in the wake of accidents, the employers would then say that the workers are self-employed persons and hence they do not enjoy labour protection, and these so-called "self-employed" persons have not taken out any EC insurance for themselves because they think that they are employees.....

PRESIDENT (in Cantonese): Please state your supplementary question.

MR ALBERT CHAN (in Cantonese): *Therefore, the entire arrangement for labour insurance is inadequate for protection of workers. May I ask the Secretary how the Government will provide assistance, rather than just repeating what has been said over and over again like a "human tape recorder", for this is tantamount to saying nothing at all, and while they always say that they are very concerned about*

PRESIDENT (in Cantonese): Please ask your supplementary question.

MR ALBERT CHAN (in Cantonese):*But at the end of the day, workers do not enjoy any protection. How can the Secretary ensure that employees will not be deprived of labour protection as a result of the Government's dereliction of duty and failure to translate its words into actions?*

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): Thank you, Mr CHAN. The Government is absolutely serious in discharging our duties to ensure that workers' interests are not compromised. Our Labour Inspectors conduct inspections at various enterprises on a regular basis every year to ensure that the employers have taken out insurance for their employees. Besides, as Members can note from my main reply, there were over 1 800 cases of successful prosecution over the past year and two and so, summonses were issued and cases were convicted. On the other hand, as I have just said, we have maintained close liaison with the insurance industry and also worked in concert with the OCI to ensure that the ECIRS mechanism operates smoothly. We will also remind the insurance industry to consistently improve their mechanism and bring it up to date. The insurance industry must also be aware of the problems and prepared

to make improvements to their schemes at all times. So, there is close liaison between the industry and the Government.

MR ALBERT CHAN (in Cantonese): *The Secretary is like an idiot talking nonsense. I asked him how the Government will ensure that workers are protected and he said a lot of things just now, but all that he said was only a repetition of what had been said before. The problem is still there, and many employees do not enjoy protection.....*

PRESIDENT (in Cantonese): Mr CHAN, you asked the Government what measures are in place to ensure that employees enjoy protection, and the Secretary has already given a reply. If you think that these measures are inadequate or ineffective, please follow this up through other channels.

MR TANG KA-PIU (in Cantonese): *President, in fact, the Secretary has only said that employers who are unable to take out insurance can seek assistance from the ECIRS system, but he has not addressed squarely the problem of the premium spiral. The continued rise the premium has perpetrated the emergence of some unspoken rules. According to some of the cases that I have received, the first unspoken rule is "bogus self-employment"; the second unspoken rule is that when workers report work injuries, the employer will ask them not to report them but to resolve their cases through private settlement instead; and the third unspoken rule is that the injured workers may even be dismissed after their cases are settled. All these are directly related to the treatment for workers. So, my question is: In the view of the Secretary or the Government, to what level should the premium be increased before they will kick-start the discussion and consultation on setting up a central employees' compensation mechanism?*

PRESIDENT (in Cantonese): Which Secretary will reply? Secretary for Labour and Welfare, please.

SECRETARY FOR LABOUR AND WELFARE (in Cantonese): President, perhaps let me try to tackle part of the question, and Secretary Prof K C CHAN

may consider it from the angle of insurance premium if he wishes to provide supplementary information.

I think we have to be pragmatic. First, with regard to those cases of "bogus self-employment" and work injuries mentioned by the Member just now, if the employer has acted against the law, I encourage employees to take the initiative to lodge complaints to the Labour Department. We will certainly do justice for them and ensure that these employers cannot escape the punishment by law. Such exploitation must not be allowed. Second, as I have said, we are concerned about the situation of employers taking out EC insurance, and we fully appreciate their difficulties and so, we very much hope that through the ECIRS, employers can take out EC insurance at reasonable premiums conveniently. Perhaps let me defer to Secretary Prof K C CHAN to add some points from the angle of insurance premium.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, Members are very concerned about the premium increase. Secretary Matthew CHEUNG has stated a number of reasons for the premium increase, and Members can note some of the figures. As to the question of whether the premium charged by insurance companies is reasonable, judging from the status of their operation, insurance companies have indeed recorded underwriting losses in their EC insurance business over the past decade or so. The losses incurred are about \$400 million on average annually. Certainly, the reasons for a premium increase have to do with the huge expenses incurred by compensation for work injuries. The reasons also have to do with situations such as employers deliberately making false declaration on the number of employees. As a result, the insurance industry has to increase their estimate of the premium recently, thus causing the premium to go up. To address this problem, I agree with Secretary Matthew CHEUNG that more efforts should be made at source and more should be done in publicity and education, focusing on the reduction of cases involving false declaration on the number of employees and reduction of work injuries.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR TANG KA-PIU (in Cantonese): *The Secretary has not answered my supplementary question. To what level should the premium be increased before the Government will formally review the system afresh?*

PRESIDENT (in Cantonese): Which Secretary will reply? The Member's question is about the relationship between a review of the system and the premium. Secretary for Financial Services and the Treasury, please.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): With regard to the premium, I can only say that we will monitor the premium levels, and we will engage many actuaries to ensure that the premium is in line with the actual circumstances.

PRESIDENT (in Cantonese): We have spent nearly 24 minutes and 30 seconds on this question. Last oral question.

Demands of Small and Medium Securities Dealers

6. **MR CHRISTOPHER CHEUNG** (in Cantonese): *President, some small and medium securities dealers have relayed to me that they have recorded significant losses in their businesses. They have raised with the Government their numerous demands and concerns, including the request for the reintroduction of the minimum brokerage commission rule and the concern about unfair practices of banks in conducting securities businesses, and so on, but such demands and concerns were not given due regard. In this connection, will the Government inform this Council:*

- (a) *given that in reply in the debate on the motion moved by me in this Council on the 6th of this month, the Secretary for Financial Services and the Treasury had pointed out that should the minimum brokerage commission rule be reintroduced, the burden of investors would be increased, of the reasons why the Government merely revoked the minimum brokerage commission rule as a means to*

relieve investors' burden, and refuses to consider, as measures to further reduce investors' burden, abolishing the stamp duty on stock transfers or requiring the Securities and Futures Commission (SFC) (which had a surplus of \$7.5 billion in 2011-2012) to reduce the transaction levies;

- (b) as some comments have pointed out that banks are at present employing cut-throat competition tactics to compete for securities businesses, whether it has assessed if such tactics are against the principle of fair competition; and there are also comments that it is a current global trend to require banking businesses be separated from securities businesses, whether the Government will examine the introduction of a requirement for separating these two types of businesses; and*
- (c) as some securities dealers have pointed out that after the Hong Kong Exchanges and Clearing Limited (HKEx) has implemented the arrangement of shortening the lunch break and extending the trading hours, the volume of transactions of securities has not increased as a result, but the arrangement has affected the operation of the trade, whether the Government will ask the HKEx to review such an arrangement in response to the motion passed by this Council on the sixth of this month; how the authorities will monitor the HKEx to ensure that it will take into consideration the overall interests of the trade and will not neglect the business difficulties of small and medium securities dealers when formulating policies?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, as I have mentioned during the motion debate on "Supporting the development of the securities industry" held on 6 December, when the Government considers and formulates policies relating to the securities industry, the policy objectives have always been promoting the efficiency, competitiveness, transparency and fairness of the securities sector. The issues raised by Mr Christopher CHEUNG today are also considered in accordance with the same objectives.

My reply to the three parts of the question is as follows:

- (a) The authorities and the SFC pay a lot of attention to the operating environment of the industry. Regarding the levy rate imposed by the SFC, the SFC has reduced its levy twice — by 40% in aggregate over the past six years. The current levy is 0.003%, that is, \$0.3 for every \$10,000 in value of transactions. According to the SFC's analysis, even a further reduction in levy is unlikely to result in any increase in turnover, or otherwise assist market intermediaries or investors in a material way. In this connection, the SFC did not suggest reducing the levy rate in its 2012-2013 Budget. Nonetheless, in view of the uncertain global economic outlook, which we understand posed difficulties to the operating environment of the market participants, the SFC granted a two-year license annual fee waiver to existing licensees from 1 April 2012, with a view to relieving the operating pressure of brokers.

As regards stamp duty, the Government reduced stamp duty for securities from 0.25% by 10% to 0.225% in April 2000, and further reduced it to 0.2% in September 2001, that is, the buyer and seller each pay 0.1%, and this amounted to a 20% reduction. This is to reduce the transaction costs of stocks, so as to enhance the competitiveness of the Hong Kong stock market.

- (b) The Government is committed to promoting competition with a view to raising economic efficiency and creating a better business environment so as to benefit the market and its participants. In the securities market, all intermediaries, including both brokers and banks, compete by way of providing high quality services and competitive prices. Intermediaries have to develop their service and price strategies by taking into account investors' needs, market conditions and their own modes of operation. This enables investors to have more choices, and thus help promote the development of the entire market.

Securities business in both banks and securities brokerages are regulated by the SFC, while the Hong Kong Monetary Authority (HKMA) is the front-line regulator of banks. Both the SFC and the HKMA aim at protecting investors and maintaining the overall

stability of the financial system. They communicate regularly with each other on regulatory issues, including licensing, inspection, investigation, enforcement and punishment. For example, the SFC and the HKMA have jointly carried out a mystery shopper programme in respect of intermediaries' sales practices of unlisted securities and futures products.

As securities business offered by banks can provide an additional investment means for the public, we do not consider it necessary to require banks to segregate their businesses. We will continue to monitor the developments in both the local market and international regulatory arena.

- (c) I have responded to this issue in the motion debate, and I shall make a brief response here. As stipulated in the Securities and Futures Ordinance (SFO), the HKEx is required to uphold the principle of safeguarding the public interest, having particular regard to the interests of the investing public. This is to ensure that in the event a conflict between the public interest and the interests of the HKEx arises, the HKEx will accord priority to public interest. The SFC also supervises the operation of the HKEx and the market in accordance to SFO. When the HKEx launches any new measures, the HKEx will assess the market impact and consult the market, and also keep in close communication with the SFC. When the SFC scrutinizes and approves the new measures proposed by the HKEx, the SFC will assess the impact of these measures on the competitiveness of the Hong Kong financial market and issues concerning from risk management, including the impact on different stakeholders.

The extension of trading hours can reduce the time gap between the opening time of the Hong Kong market and our regional competitors, in turn enhance the HKEx's competitiveness. Since the extension of the trading hours, the HKEx noted that the interaction between the Hong Kong and Mainland markets has increased. Recently, RQFII A-share Exchange Traded Funds (ETFs), listed in Hong Kong and cross-border ETFs listed in the Mainland were successfully launched against the background of the complete overlapping of the trading hours of our market those of the Mainland's.

We have already conveyed to the SFC that there is a need for the SFC to review from time to time the market reform measures introduced by the HKEx in light of the actual situation and their effectiveness, and to take follow-up actions as appropriate to refine these measures in order to meet market development needs.

To conclude, we believe that the best way to support local small and medium-sized brokerage firms is to continue providing a fair and conducive business environment for all market participants, enhancing the quality of the market and the overall securities industry. We will continue to maintain close contact with the industry, and strive together to create a business environment that is conducive to the sustainable development of the industry.

MR CHRISTOPHER CHEUNG (in Cantonese): *President, the Secretary points out in his reply that stamp duty has been reduced in some measure, however, stamp duty is now pitched at 0.1% for the buyer and the seller, whereas the general commission of brokerage firms has been lowered to 0.05%. In other words, the commission income of brokers equals to half of the stamp duty, let alone the fact that banks are offering commission-free services. Moreover, the Government did agree to consider abolishing the stamp duty if the industry would cancel the standardized commission system. Besides, the SFC has recorded a surplus of \$7.5 billion from levy, which means there is ample room for a further reduction of levy. If so, why merely commission charged by brokerage firms is regarded as the sole cost borne by investors and the industry should bear the burden of investors all on its own? For this reason, we think the Government should reconsider the reduction and waiver of stamp duty.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, I have mentioned in the main reply that the authorities did lower stamp duty in the past. Certainly, we will pay attention to the impact of stamp duty on Hong Kong's competitiveness in transactions and the market. However, stamp duty is a significant source of revenue income, and we have to give due regard to this. Besides, given the market condition today, the levy of stamp duty in proper measure is a desirable risk management approach, which may prevent high-frequency transactions from taking place in Hong Kong. We have thus taken this into consideration in our policy.

MR ANDREW LEUNG (in Cantonese): *President, I would like to follow up part (b) of the main question of Mr Christopher CHEUNG, which mentions that some comments have pointed out that banks are at present employing cut-throat competition tactics not aiming at making profit, such as charging zero-commission. However, the Secretary has not answered whether such tactics violate the principle of fair competition. Though the competition law has not yet come into effect, I know that the Competition Policy Advisory Group (COMPAG) has been set up under the Government. May I ask whether the industry may lodge a complaint to the COMPAG if they consider those tactics constitute unfair competition?*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): I will first respond to the question about the so-called cut-throat competition tactics. We have examined the operation of certain banks. According to our understanding, the commission for stocks trading now charged by banks on their customers is higher than that charged by securities brokers. However, recently, banks have launched many advertisements on special offers for stocks trading. According to the underlying message and the actual situation, we notice that these special offers are subject to many terms and conditions. For example, certain privileged offers are valid for a specified period or are applicable to select customers, and so on. Therefore, given the present situation, we do not notice the employment of any so-called cut-throat competition tactics for the time being. However, we definitely welcome views raised by Members and the COMPAG will surely address the views expressed by the industry in this regard.

MR ALBERT HO (in Cantonese): *President, the Secretary has mentioned in his reply to Mr CHEUNG that the surplus in levy has accumulated to a sum exceeding \$7 billion. I disagree with the argument of Mr CHEUNG that the levy should be lowered. On the contrary, I would like to point out that the compensation for each investor is still capped at \$150,000 now, which I recall was set a dozen of years ago. Therefore, it is now time we reviewed this amount to provide proper protection to investors, which is also a way to enhance the*

credibility of the financial markets. As such, will the Secretary consider reviewing the maximum compensation of \$150,000 for each investor?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, first, I would like to clarify that the \$7 billion surplus mentioned by Christopher refers to the funds received by the SFC from transaction levy, but not the funds for the Investment Compensation Fund, which is the operation funds and reserve of the SFC. Regarding the supplementary question raised by the Member just now, that is, whether we will consider reviewing the compensation amount under the Investment Compensation Fund, we may consider the case in the light of changes in the circumstances.

MR WONG KWOK-HING (in Cantonese): *President, I would like to tell the Secretary via you that during the debate of this Council on 6 December on the motion proposed by Mr Christopher CHEUNG and the amendment proposed by me, the industry noted the response of the Government but was dissatisfied with it. Therefore, it does not mean that the problem is solved once the Government gave the response on 6 December. My supplementary question is about the Secretary's present capacity as the person in charge of monitoring the SFC. Since the SFC is responsible for overseeing the HKEx, will the Secretary or the Government promise that when the HKEx introduces any significant policy or measures on the industry, or implements any reform or changes, it must first give an account to the relevant panels of the Legislative Council and let the industry expresses their views via this platform of the Legislative Council? For by doing so, it will realize the Secretary's assurance in the main reply that on the operation of the industry, the SFC's monitoring of the HKEx will not only ensure public interest but also uphold fairness and impartiality.*

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, the operation of the financial markets must have credibility. As such, we are more than willing to be subject to the monitoring of Members. However, the operation of the market also counts on the various reform and new measures carried out by the industry, market participants and the regulator from the perspective of practicability, the development of the market

and the protection of investors. Under the present circumstances and according to existing laws, both the SFC and the HKEx must consult the industry on major market changes. This is a good principle adopted by other financial markets, and Hong Kong adopts entirely the same practice of other financial markets in this respect, where consultation of the industry is required on major, as well as minor, policies.

Regarding the concerns of the Member, such as the extension of trading hours and the night trading of index futures, as I said in a previous reply, the actual result obtained by the HKEx in the consultation of the industry and the many views collected indicated that many support the arrangement. The HKEx has proposed various revisions to the arrangement in response to the views of the industry, such as adjusting the maximum fluctuation for night trading. In fact, the SFC and the Government attach the utmost importance to consultation of the industry prior to the introduction of any measure, whether the industry has the opportunity to express views and whether the final conclusion is in line with the overall result of the consultation.

We surely welcome the Legislative Council to put forth questions about and follow up the issue. However, I have to point out that as far as the monitoring and enhancement of the financial markets is concerned, we have to respect the views of the industry and market participants.

PRESIDENT (in Cantonese): Has your supplementary question not been answered?

MR WONG KWOK-HING (in Cantonese): *President, it has not been answered. The Secretary has not answered whether the Government will undertake to give an account to the Legislative Council on major changes and reforms to be introduced by the HKEx in future, and whether consultation will be conducted via the platform of the Legislative Council. We may brush aside whether or not the previous practice is fair, for had it been fair, it would not have prompted thousands of people to take to the streets to protest on two occasions*
.....

PRESIDENT (in Cantonese): Mr WONG, please stop giving your views.

MR WONG KWOK-HING (in Cantonese): *Therefore, I hope the Secretary will respond whether the authorities will come to the Legislative Council*

PRESIDENT (in Cantonese): Mr WONG, the Secretary has indeed answered this just now. Secretary, regarding Mr WONG's question of whether you will undertake to come to the Legislative Council, do you have anything to add?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): We often report to the Legislative Council on issues in this respect. Whenever major questions in this respect arise, the Legislative Council may invite representatives of the Bureau and participants concerned to come to the Legislative Council to give explanations. However, I would like to reiterate in follow-up that Members must understand that we have to respect the decision on market reform made jointly by market participants and the regulator.

MR PAUL TSE (in Cantonese): *President, the Secretary has time and again emphasized in his reply the desire to ensure fairness to all market participants. But in reality, banks engaging in these trading activities enjoy an edge. Basically, they enjoy the benefit of their goodwill and economies of scale. More importantly, banks have the information of deposits with banks of investors, and in case recovery of money is required as a result of any event, banks enjoy protection in various aspects like lien and security. These advantages are not enjoyed by other brokerage firms, and they enable banks to outperform brokerage firms even with zero-commission offers. No wonder brokers are deeply aggrieved by this.*

President, does the case not involve unfair competition? Will the authorities consider prohibiting banks from linking stocks trading activities, even if it is allowed to engage in it, with its depositors' business? In other words,

banks cannot provide banking and stocks trading services simultaneously in their business operation. They can only choose either one, but not both.

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): President, we have to understand that under the present circumstances, the development of local financial markets does not differ from the experience of other markets, and banks being multi-business financial institutions are also found in many other markets. Besides, it will provide customers with more choices, where financial services are provided at reasonable price at various degrees. In addition to stocks trading, banks can also provide a desirable service platform for consumers in finance management and insurance services, and so on.

Definitely, the monitoring policies of the Government seek to ensure that banks are subject to regulation in this respect and that they must be on a par with other participants in the industry. This is our policy commitment. In other words, be it insurance or securities business, it must be subject to the regulation of the same set of practice codes regulating other operators in the same industry. Therefore, the SFC is also required to monitor the securities business of banks, and where front-line sales are carried out by banks, the regulation of the overall operating practice and the regulatory principles adopted are indeed the same.

We are also concerned whether the sale tactics adopted by banks, given their special position, would give rise to unfairness. In connection with monitoring the sale activities of banks, the HKMA will require that certain finance management products be sold at separate venues, so as to ensure that customers are given proper guidance, and the promotion of such products should enable customers to know that these sale services are separated from the general conventional business of banks.

MR CHRISTOPHER CHEUNG (in Cantonese): *President, the Secretary mentioned earlier that stamp duty was a significant source of government income and that the levy of stamp duty would facilitate and enhance the risk management of the market. I very much agree with this point. However, commission is the only source of income of brokers, not part of but the only source of income.*

Under this circumstance, why does the Government remain silent when zero-commission competition arises in the market? Why does the Government adopt two entirely different sets of principles? Is it unfair to small brokers?

SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY (in Cantonese): As I said earlier, many different sales tactics are adopted in this connection. As in the examples I have come across, banks offering extremely low commission will impose many other restrictions or terms and conditions. As such, it is really doubtful whether banks are charging very low commission. As far as I know, individual brokers will charge extremely low commission to compete for customers. They may provide less comprehensive service to these customers, for instance, customers will mainly be provided with computers or other equipment for trading. For this reason, we consider it practically difficult to implement the proposal of setting minimum commission put forth by some industry representatives.

Regarding the question from Mr CHEUNG, I fully understand and very much appreciate the situation of the industry. I earnestly want to identify ways to enhance the competitiveness of the operation of industry and improve its business environment. However, if the setting of minimum commission is made the premise, as I said in my previous response, it can hardly be implemented in today's circumstances, for customers and the public consider imposing fixed charges an unfair practice. Moreover, different operators adopt different practices of operation. Despite the setting of minimum commission, not all operators will comply with it. There was no lack of such examples in the past. Even if minimum commission is imposed, certain brokers will offer concessions through other means to compete for customers.

Therefore, I think this is not necessarily the right direction in addressing the operation problems faced by the industry. However, we are willing to work together with members of the securities industry in enhancing their overall competitiveness, and so on, and we certainly wish to listen to their views.

PRESIDENT (in Cantonese): Oral questions end here.

WRITTEN ANSWERS TO QUESTIONS**Assisting SMEs in Taking Out Employees' Compensation Insurance Policies**

7. **MR TOMMY CHEUNG** (in Chinese): *President, some small and medium enterprises (SMEs) have relayed to me that in recent years, they have encountered difficulties in taking out employees' compensation insurance policies (commonly known as "labour insurance policies") for their employees. Many SMEs, although not belonging to high-risk industries, have been rejected repeatedly or charged high insurance premiums for taking out labour insurance policies by insurance companies. These SMEs can only file applications with the Employees' Compensation Insurance Residual Scheme Bureau. In this connection, will the Government inform this Council:*

- (a) *whether it knows the number of applications received in the past three years by the Employees' Compensation Insurance Residual Scheme Bureau from SMEs not belonging to the 22 high-risk industries specified under the Employees' Compensation Insurance Residual Scheme (ECIRS), with a breakdown by industry; among such applications, of the number of cases in which insurance companies had eventually underwritten the labour insurance policies for the applicants (with a breakdown by industry of the average annual premium rates paid by these SMEs for labour insurance policies), and the number of applications withdrawn by the applicants;*
- (b) *given that quite a number of SMEs have mistaken that ECIRS only helps those enterprises which belong to the high-risk industries specified under ECIRS to take out labour insurance policies and thus seldom file applications with the Employees' Compensation Insurance Residual Scheme Bureau, whether the authorities will enhance ECIRS and step up publicity, so as to enable more SMEs which encounter difficulties in taking out labour insurance policies to obtain assistance; if they will, of the details; if not, the reasons for that; and*
- (c) *whether the authorities have investigated if the problem of SMEs being rejected for taking out labour insurance policies by insurance*

companies is worsening, and examined the impact of such problem on the catering, courier service and wholesale industries, and so on.; if they have, of the details; if not, the reasons for that; whether they have drawn up specific measures to tackle the difficulties of SMEs in taking out labour insurance policies; if they have, of the details; if not, the reasons for that?

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, with the Administration's encouragement, the Hong Kong Federation of Insurers set up the ECIRS in 2007 to provide last-resort cover to employers encountering difficulties in taking out employees' compensation insurance (EC insurance). The ECIRS has indeed performed the function as a market of last resort to ensure that employers in various industries (particularly high-risk industries) are able to acquire EC insurance. Employers meeting the following criteria can apply to participate in the ECIRS:

- (i) An employer has been declined insurance by at least three insurers providing EC insurance, and the non-availability of insurance is not by reason of the employer failing to pay premiums due or meet statutory requirements on occupational health and safety imposed as a condition of the grant of insurance; or
- (ii) Though EC insurance is offered to the employer, the premium rate quoted by the insurer is 30% over the corresponding premium benchmark rate of the relevant high-risk industry specified by the ECIRS.

If employers of any trade have difficulties in procuring EC insurance, they may contact the Employees' Compensation Insurance Residual Scheme Bureau for assistance.

My reply to the three parts of the question raised by Mr Tommy CHEUNG is set out below:

- (a) In the past three years, that is 2009 to 2011, for applications submitted by employers of non-high-risk industries under the ECIRS, the information sought is provided as follows:

<i>Year</i>	<i>Industry</i>	<i>Number of applications</i>	<i>Number of applications which were offered EC insurance by other insurance companies</i>	<i>Number of applications withdrawn (and reason)</i>
2009	Recycling*	2	2	0
	Food and Beverages	0	0	0
	Transportation*	1	1	0
	Cleaning*	0	0	0
	Wholesale	0	0	0
	Courier	0	0	0
	Trading	2	2	0
	Elderly Home Service	3	3	0
	Others	5	5	0
	Total	13	13	0
2010	Recycling*	2	2	0
	Food and Beverages	1	1	0
	Transportation*	1	1	0
	Cleaning*	1	1	0
	Wholesale	0	0	0
	Courier	0	0	0
	Trading	2	2	0
	Elderly Home Service	1	1	0
	Others	12	12	0
	Total	20	20	0
2011	Recycling*	26	12	0
	Food and Beverages	7	6	0
	Transportation*	5	1	0
	Cleaning*	4	0	0
	Wholesale	2	2	0

<i>Year</i>	<i>Industry</i>	<i>Number of applications</i>	<i>Number of applications which were offered EC insurance by other insurance companies</i>	<i>Number of applications withdrawn (and reason)</i>
	Courier	1	0	0
	Trading	1	0	0
	Elderly Home Service	1	1	0
	Others	31	23	1 (Ceased Business)
	Total	78 [#]	45	1

Notes:

* In 2009 to 2011, the ECIRS had not yet designated recycling, cleaning and logistics/transportation industries as high-risk industries.

13 were provided EC insurance by the ECIRS, and the remaining 19 applications had sought other means to take out EC insurance.

The ECIRS does not collect information on the average annual premium rate in respect of applications which were offered EC insurance by other insurance companies.

- (b) The ECIRS mainly provides a market of last resort to employers having difficulties in securing EC insurance, especially those of the high-risk industries. The Employees' Compensation Insurance Residual Scheme Bureau will enhance the scheme from time to time, including reviewing the list of high-risk industries, so as to provide assistance to more SMEs having difficulties in taking out EC insurance. When the ECIRS commenced operation in 2007, it only served employers of 19 high-risk industries. In view of the increasing number of applications received from the cleaning, logistics/transportation and recycling industries recently, the ECIRS has designated these three industries as high-risk industries with

effect from 1 April 2012. The ECIRS will continue to monitor the list of high-risk industries and revise the list according to practical needs.

At the same time, to introduce and promote the ECIRS to the public, especially employers and employees, the Employees' Compensation Insurance Residual Scheme Bureau has printed pamphlets detailing the objective, structure and operation of the ECIRS for distribution to employers' associations and employees' unions, insurance brokers and agents associations; and to members of the public through branch offices of the Labour Department, Occupational Safety and Health Council and the District Offices of the Home Affairs Department. The Employees' Compensation Insurance Residual Scheme Bureau has also conducted briefings on the ECIRS for representatives of employers' associations and employees' unions, and so on. The Employees' Compensation Insurance Residual Scheme Bureau has also published annual reports and maintained a website <www.ecirsb.com.hk> for public browsing. Qualified employers can apply for insurance online.

In addition, the Employees' Compensation Insurance Residual Scheme Bureau will closely liaise with the Office of the Commissioner of Insurance, the Labour Department and employers/employees organizations to step up the promotion of the ECIRS and actively assist employers of other non-high-risk industries who have difficulties in procuring EC insurance.

- (c) The Administration has not conducted any formal survey on SMEs being declined EC insurance. Nonetheless, the Administration has been keeping a close watch on the situation of employers taking out EC insurance as well as closely monitoring the operation of the ECIRS. Employers of any trade, including catering, courier, wholesale, and so on, who encounter difficulties in obtaining EC insurance, such as being declined by three insurers, may apply to join the ECIRS.

The Employees' Compensation Insurance Residual Scheme Bureau and the Hong Kong Federation of Insurers are most willing to

discuss with representatives of respective industries or trade associations on how to assist them in taking out EC insurance. If there is a significant increase in the applications from a particular industry, the Employees' Compensation Insurance Residual Scheme Bureau will consider commissioning an independent actuary to work out the premium benchmark for that industry so as to expedite the application processing and facilitate employers in estimating the insurance costs. To accommodate the needs of individual industries, the Employees' Compensation Insurance Residual Scheme Bureau will also endeavour to make special arrangements, such as issuing short-term insurance policies for cleaning industry, designing special policy terms like work information declaration mechanism and occupational safety enhancement for scaffolding industry, and so on, so as to assist employers of these industries to solve any difficulties they may encounter in obtaining EC insurance.

Safety of Automated External Defibrillators

8. **DR JOSEPH LEE** (in Chinese): *President, I have received complaints that the authorities have not adopted uniform specifications for acquiring automatic external defibrillators (AEDs), and the electrical energy output from some AED models is too high, which may endanger the health and safety of patients suffering from heart attack. Regarding the safety of AEDs, will the Government inform this Council:*

- (a) *whether any mechanism is in place at present to regulate the specifications of AEDs provided in public places, in order to ensure that such devices are safe to use; if so, of the details; if not, the reasons for that;*
- (b) *of the specifications adopted by the authorities for acquiring AEDs; whether they have made reference to the specifications adopted by overseas countries and consulted professionals, so as to ensure that the electrical energy output of AEDs will not cause cardiac injuries or skin burns to the patients; if they have, of the details; if not, the reasons for that;*

- (c) *whether the authorities require that any person using an AED must have received relevant training; if not, whether they will consider promoting such training to teach more members of the public how to use AEDs properly, and requiring that any person using such devices must have received relevant training; and*
- (d) *whether it has assessed if it is suitable to use AEDs on young patients; if it has, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, AEDs are medical devices used to perform cardiac resuscitation on patients. Medical and first-aid researches have shown that with the simultaneous use of an AED in the course of performing cardiopulmonary resuscitation (CPR) on a patient suffering from heart attack, the survival rate of the patient could be increased. At present, all ambulances of the Fire Services Department (FSD) and the Auxiliary Medical Services (AMS), all public hospitals and general out-patient clinics under the Hospital Authority (HA), a number of clinics under the Department of Health (DH), as well as aquatic venues (such as public swimming pools and beaches, and so on) under the Leisure and Cultural Services Department (LCSD) are equipped with AEDs for first aid treatment. AEDs will also be installed at some government office buildings and the LCSD's land-based leisure venues with active facilities or high utilization rates (including sports centres and major parks, and so on) in 2013. In addition, AEDs have also been installed at a number of places in the territory, including office buildings, theme parks, schools, large shopping malls, private housing estates, private clubhouses, commercial buildings and nursing homes. However, before using AEDs on patients, consideration must be given to the patients' prevailing circumstances and attention must be paid to the operation procedures. In this connection, anyone using AEDs should first receive training on first aid and operation of the device, and should send the patients to hospitals for further medical treatment as quickly as possible.

My reply to the four parts of the question raised by Dr Joseph LEE is as follows:

- (a) AEDs are medical devices used to perform cardiac resuscitation on patients. Currently, there is no specific legislation to regulate the manufacture, import/export, sale or use of medical devices in Hong

Kong. To raise public awareness of the importance of medical device safety and pave the way for implementing the long-term statutory control, a voluntary Medical Device Administrative Control System was established by the DH in 2004. Under this administrative control system, medical devices that conform to requirements on safety, effectiveness and quality will be listed. Manufacturers and traders must comply with the relevant listing conditions and observe the regulatory measures. Since 2005, the DH has kept in view the safety warnings and recall notices issued overseas about medical devices and disseminated the information to all parties concerned. As at 30 November 2012, a total of 13 models of AEDs were included in the list under this Administrative Control System.

The Government intends to put in place a statutory regulatory framework for medical devices. The proposed legislation will be based on the existing Medical Device Administrative Control System with an aim to exercise regulation over medical devices as to their safety, effectiveness and quality through the implementation of pre-market and post-market control. Currently, we are undertaking a Business Impact Assessment on the proposed regulatory framework and will consult the Panel on Health Services of the Legislative Council on the legislative proposal in due course.

- (b) At present, all ambulances of the FSD and the AMS, all public hospitals and general out-patient clinics under the HA, a number of clinics under the DH, as well as aquatic venues under the LCSD are equipped with AEDs for first aid treatment. Specifications of the AEDs procured by government departments are all set out by taking reference from international standards (such as the professional standards set by the International Electrotechnical Commission (IEC), the United States Food and Drug Administration (FDA) approval, or Euro Certificate of Conformity (EC)). General speaking, government departments will also seek advice from the Electrical and Mechanical Services Department.
- (c) The Government has all along promoted the public's awareness of first aid treatment for heart attack through various means. The DH

organizes Basic Life Support Provider Courses covering the proper use of AEDs for its healthcare personnel through its Professional Development and Quality Assurance Service. From January 2012 to the present, the DH has organized 88 such courses for 488 healthcare personnel. The HA's Accident and Emergency Training Centre also provides training courses for healthcare personnel and members of the public on the correct way to use AEDs. Since January 2012, the Centre has organized 281 such courses, and a total of 4 914 healthcare personnel and members of the public have received training. The FSD also provides CPR and automated defibrillation training to the public. In 2011, about 2 000 people completed the automated defibrillation training provided by the FSD and they included staff of property management companies, airport security personnel, staff of residential care homes for the elderly, government staff, staff in the hotel industry, MTR staff and staff of theme parks.

In addition, training on the use of AEDs is also included in the CPR training provided by organizations such as St. John Ambulance, the AMS and the Hong Kong Red Cross, and so on. In 2011, the Hong Kong St. John Ambulance organized 814 training courses on the use of AEDs for about 11 090 people, while the Hong Kong Red Cross also offered 139 such courses in which a total of 845 people participated. The Government will continue promoting the public's awareness of first aid treatment for heart attack through various means.

- (d) According to the guidelines of the American Heart Association, AEDs are suitable for use on patients of all ages except new-born babies as indicated by clinical experiences. For patients aged eight or above, they should receive the standard dose of energy delivered by AEDs. For patients aged from one to eight, it is more preferable for them to receive the dose of energy applicable to children delivered by AEDs through pediatric attenuated pads/cables. As for children aged below one, the use of manual external defibrillators on them is more preferable.

Pilot Scheme to Let Public Market Stalls on Short-term Tenancies

9. **DR KWOK KA-KI** (in Chinese): *President, in October 2010, the Food and Environmental Hygiene Department (FEHD) launched a pilot scheme to let market stalls on short-term tenancies (STTs) for its public markets (the pilot scheme). Under the pilot scheme, market stalls which had been vacant for more than eight months were let through open auctions and their upset prices were fixed at 60% of the open market rents. The tenancies of the stalls leased out during the first round of open auctions covered three years, and stalls which had not been leased out were leased out in the form of STTs during the second round of open auctions. The STTs, which covered three months commencing on 1 November 2010, were renewable for another three months. The tenants might extend the tenancies later by paying the open market rents of the stalls as assessed by the Rating and Valuation Department or the STT rents, whichever were higher. The tenancy agreements for the third term covered 30 months. However, the FEHD has not offered rent concessions to long-term market stall tenants who are required to pay rents higher than those payable by short-term tenants, resulting in two sets of rental standards applicable to the same market. In this connection, will the Government inform this Council:*

- (a) *of the vacancy rates of various FEHD markets in Tsuen Wan, Tuen Mun, Yuen Long and Kwai Tsing Districts from 2008 to the first half of this year (set out in the table below);*

Markets under the FEHD		Vacancy rate				
		First half of 2012	2011	2010	2009	2008
Tsuen Wan	Heung Che Street Market					
	Sham Tseng Temporary Market					
	Tsuen King Circuit Market					
	Tsuen Wan Market					
	Yeung Uk Road Market					
	Chai Wan Kok Cooked Food Market					
Tuen Mun	Hung Cheung Cooked Food Market					
	Kin Wing Cooked Food Market					
	Lam Tei Market					
	San Hui Market					
	Tsing Yeung Cooked Food Market					
	Yan Oi Market					

<i>Markets under the FEHD</i>		<i>Vacancy rate</i>				
		<i>First half of 2012</i>	<i>2011</i>	<i>2010</i>	<i>2009</i>	<i>2008</i>
<i>Yuen Long</i>	<i>Hung Shui Kiu Temporary Market</i>					
	<i>Kam Tin Market</i>					
	<i>Kik Yeung Road Cooked Food Market</i>					
	<i>Kin Yip Street Cooked Food Market</i>					
	<i>Lau Fau Shan Market</i>					
	<i>Tai Kiu Market</i>					
	<i>Tai Tong Road Cooked Food Market</i>					
	<i>Tung Yick Market</i>					
<i>Kwai Tsing</i>	<i>Cheung Tat Road Cooked Food Market</i>					
	<i>Ka Ting Cooked Food Market</i>					
	<i>Kwai Shun Street Cooked Food Market</i>					
	<i>North Kwai Chung Market</i>					
	<i>Tai Yuen Street Cooked Food Market</i>					
	<i>Wing Fong Street Market</i>					
	<i>Wo Yi Hop Road Cooked Food Market</i>					
	<i>Tsing Yi Market</i>					

- (b) *of the respective numbers of stalls leased out by three-year tenancies, STTs and tenancy extension through the pilot scheme in the past two years; and*
- (c) *of the existing number of tenants who have rented stalls for more than three years but not through the pilot scheme; whether the authorities will implement any concessionary measures for such tenants; if they will, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, at present, the FEHD is responsible for managing 77 public markets which mainly provide fresh food and other dry and wet goods, as well as 25 free-standing cooked food markets (CFMs), providing a total of some 14 450 stalls. The FEHD is committed to enhancing the operating environment and competitiveness of its

markets and CFMs through the implementation of various measures. These measures include carrying out enhancement projects to upgrade their facilities, keeping the markets clean to provide customers with a pleasant environment, and holding promotional activities from time to time to attract patronage. Currently, the overall occupancy rate of public markets and CFMs managed by the FEHD is approximately 89.1%, representing an increase of 12.2 percentage points from 76.9% in 2008. Excluding the number of vacant stalls that have been withheld from letting out due to impending consolidation or improvement works in certain markets and CFMs, the actual occupancy rate is 96%.

My reply to the various parts of the question is as follows:

- (a) The vacancy rates of various FEHD markets and CFMs in Tsuen Wan, Tuen Mun, Yuen Long and Kwai Tsing Districts from 2008 to the first half of this year are set out below:

<i>Markets under the FEHD</i>		<i>Vacancy rate</i>				
		<i>First half of 2012</i>	<i>2011</i>	<i>2010</i>	<i>2009</i>	<i>2008</i>
Tsuen Wan	Heung Che Street Market	4%	6%	0%	21%	24%
	Sham Tseng Temporary Market	0%*	0%*	0%*	33%	53%
	Tsuen King Circuit Market	0%*	0%*	0%*	49%	54%
	Tsuen Wan Market	8%	14%	16%	18%	21%
	Yeung Uk Road Market	2%	2%	3%	5%	10%
	Chai Wan Kok Cooked Food Market	3%	6%	16%	25%	19%
Tuen Mun	Hung Cheung Cooked Food Market	9%	9%	0%	27%	27%
	Kin Wing Cooked Food Market	5%*	5%*	15%	35%	40%
	Lam Tei Market	0%	0%	0%	0%	0%
	San Hui Market	2%	1%	7%	9%	19%
	Tsing Yeung Cooked Food Market	0%	11%	6%	17%	17%
	Yan Oi Market	1%	1%	10%	15%	17%

<i>Markets under the FEHD</i>		<i>Vacancy rate</i>				
		<i>First half of 2012</i>	<i>2011</i>	<i>2010</i>	<i>2009</i>	<i>2008</i>
Yuen Long	Hung Shui Kiu Temporary Market	0%*	0%*	0%*	0%*	0%*
	Kam Tin Market	0%	0%	20%	20%	24%
	Kik Yeung Road Cooked Food Market	0%	0%	0%	0%	0%
	Kin Yip Street Cooked Food Market	0%	0%	0%	0%	0%
	Lau Fau Shan Market	12%	20%	20%	20%	20%
	Tai Kiu Market	2%	2%	10%	11%	30%
	Tai Tong Road Cooked Food Market	0%	0%	0%	0%	0%
	Tung Yick Market	0%*	0%*	0%*	0%*	0%*
Kwai Tsing	Cheung Tat Road Cooked Food Market	0%	0%	0%	0%	8%
	Ka Ting Cooked Food Market	0%	0%	18%	24%	29%
	Kwai Shun Street Cooked Food Market	0%	0%	0%	8%	8%
	North Kwai Chung Market	12%	5%	8%	16%	18%
	Tai Yuen Street Cooked Food Market	15%	10%	30%	75%	70%
	Wing Fong Street Market	9%	13%	25%*	0%*	0%*
	Wo Yi Hop Road Cooked Food Market	11%	11%	6%	6%	17%
	Tsing Yi Market	18%	20%	14%	18%	16%

Note:

* The figures shown are actual vacancy rates, that is, vacant stalls withheld from letting out due to impending consolidation or improvement works in the markets and CFMs concerned have been excluded from the calculation. Items without asterisk mean that there are no stalls withheld from letting out due to consolidation or improvement works in the markets and CFMs concerned.

- (b) In February 2009, the FEHD introduced the arrangement whereby long-standing vacant stalls were put up for auction at concessionary upset prices (the "concessionary upset prices" arrangement) in the interest of achieving better utilization of these vacant stalls. Under

the arrangement, the FEHD reduced the upset auction prices for stalls vacant for more than six months and eight months to 80% and 60% of the Open Market Rental (OMR) respectively and let out the stalls through a three-year tenancy, with a view to enhancing their attractiveness. Since the implementation of the arrangement, a total of about 2 220 stalls have been let out at concessionary rent.

For stalls that could not be successfully let out despite the "concessionary upset prices" arrangement, most of them were situated at locations with relatively poor patronage which render them less attractive to prospective bidders. In view of this, the FEHD had since October 2010 launched a pilot scheme to let out public market stalls through short-term tenancy (the "STT pilot scheme") thus giving persons interested in starting up their business ventures in public markets the choice of trying out their business for three months without being bound by a three-year tenancy. Under the scheme, for stalls which had been left vacant for more than eight months and were not leased out in the first round of auctions at 60% of the OMR through a three-year tenancy, they would be auctioned in the second round through a STT for three months. The STT, upon expiry of the three-month period, is renewable for another three months. The tenant may then choose to extend the tenancy for another 30 months by paying the updated OMR as assessed by the Rating and Valuation Department or the STT rent, whichever is the higher. In the past two years, a total of 30 stalls have been let out under the "STT pilot scheme", with 15 tenancies being renewed for three months and nine subsequently renewed for further 30 months.

- (c) Currently, a total of about 12 870 stalls in FEHD markets and CFMs have been let out. Among them, about 1 320 are let out under the "concessionary upset prices" arrangement and 12 under the "STT pilot scheme".

As mentioned above, the "concessionary upset prices" arrangement and the "STT pilot scheme" are applicable only in the case of long-standing vacant stalls. Hence, the concessionary rental rates are applicable to the tenants of these stalls only. In fact, the rentals of public market stalls were reduced across-the-board by 30% in

1998 and had been frozen at that reduced level since then. The tenants of many stalls are paying rents below the OMR. The Government has earlier announced its decision to further extend the rental freeze period for public market stalls under the management of the FEHD up to 31 December 2013. There is currently no plan to introduce other rental concessions for market stalls.

Recreational and Sports Facilities in Kwai Tsing District

10. **MR ALBERT HO** (in Chinese): *President, some residents of Kwai Tsing District have told me that there is an acute demand for recreational and sports facilities in the district, which has a population of nearly 500 000 at present. According to available information, the Leisure and Cultural Services Department took over the project to construct a sports centre in Area 4 of Tsing Yi (Chung Mei Road Sports Centre) in 2000 and secured support from the Kwai Tsing District Council in 2006. In 2008, the District Facilities Management Committee under the Kwai Tsing District Council passed a motion to provide an additional indoor heated swimming pool in the Chung Mei Road Sports Centre under planning. The Architectural Services Department finished drawing up the plan of the Sports Centre in April 2012. In this connection, will the Government inform this Council:*

- (a) of the respective monthly usage rates of various public swimming pools and sports centres in Tsing Yi, Kwai Chung and Tsuen Wan since 2008;*
- (b) of the latest statistics on the public open space per capita in Kwai Tsing District; and*
- (c) whether the authorities will submit, in the 2012-2013 Legislative Session, the funding proposal of the project to construct the Chung Mei Road Sports Centre to the Finance Committee of this Council for scrutiny and approval; if so, of the estimated cost for and expected commencement and completion dates of the project; if not, the reasons for that, and when the funding proposal will be submitted to the Finance Committee, as well as the estimated cost*

for and expected commencement and completion dates of the project by that time; if the construction of the Chung Mei Road Sports Centre cannot be completed within a short period of time, how the authorities will address the acute demand of the residents in the district for recreational and sports facilities?

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

- (a) The monthly admission figures for public swimming pools and the monthly usage rates of sports centres in Kwai Tsing (including Tsing Yi and Kwai Chung) and Tsuen Wan Districts from January 2008 to November 2012 are at Annex 1 and Annex 2 respectively.
- (b) Kwai Tsing District has a population of about 510 000. According to the Planning Department's Hong Kong Planning Standards and Guidelines (HKPSG), the district should have about 102 hectares of public open space. At present, Kwai Tsing District has about 135 hectares of public open space (comprising about 70 hectares provided by the Leisure and Cultural Services Department and about 65 hectares by the Housing Department). The provision is in line with that recommended in the HKPSG.
- (c) The Administration plans to make a submission to the Finance Committee of the Legislative Council within the 2012-2013 session for the funding of the "Sports centre in Area 4, Tsing Yi" (Chung Mei Road Sports Centre) project.

We are still preparing the cost estimate for construction of the project. The Administration will provide information about the project, including the estimated construction cost, when the funding application is submitted to the Finance Committee. If funding approval is obtained within the current session, we expect construction work to start in late 2013 for completion in early 2017.

Annex 1

Admission Figures for Public Swimming Pools in
Kwai Tsing and Tsuen Wan Districts
(January 2008 to November 2012)

(I) Monthly admission figures for public swimming pools in Kwai Tsing District

(i) *Tsing Yi Swimming Pool*

<i>Month</i>	<i>Monthly Admission</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	Closed	Closed	Closed	Closed	Closed
February	Closed	Closed	Closed	Closed	Closed
March	Closed	Closed	Closed	Closed	Closed
April	9 955	8 003	7 394	10 916	10 129
May	22 822	21 884	23 407	25 889	27 731
June	21 607	30 853	26 792	32 909	30 144
July	94 354	52 201	52 803	47 520	47 810
August	86 257	46 421	51 713	51 742	49 871
September	54 539	25 874	24 330	24 937	28 055
October	18 085	18 663	15 942	13 536	16 735
November	Closed	Closed	Closed	Closed	Closed
December	Closed	Closed	Closed	Closed	Closed
Total	307 619	203 899	202 381	207 449	210 475

Notes:

- (1) The higher attendance in 2008 can be attributed to the implementation of a "Free Admission Scheme" from July to September 2008 in support of the 2008 Beijing Olympic Games.
- (2) The higher attendance from July to October 2012 as compared with the same period in previous years can be attributed to the introduction of the Public Swimming Pool Monthly Ticket Scheme from 5 July 2012.
- (3) Tsing Yi Swimming Pool is an outdoor swimming pool which is closed from January to March and from November to December every year.

(ii) North Kwai Chung Jockey Club Swimming Pool

<i>Month</i>	<i>Monthly Admission</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	Closed	Closed	Closed	Closed	Closed
February	Closed	Closed	Closed	Closed	Closed
March	Closed	Closed	Closed	Closed	Closed
April	5 365	4 391	3 258	5 703	5 779
May	11 748	12 008	13 430	15 967	16 417
June	12 326	18 228	15 515	20 404	17 850
July	60 821	27 277	27 394	26 196	26 776
August	54 215	24 654	26 876	28 908	29 170
September	33 930	14 799	14 004	14 588	16 786
October	12 574	10 588	8 887	7 923	9 938
November	Closed	Closed	Closed	Closed	Closed
December	Closed	Closed	Closed	Closed	Closed
Total	190 979	111 945	109 364	119 689	122 716

Notes:

- (1) The higher attendance in 2008 can be attributed to the implementation of a "Free Admission Scheme" from July to September 2008 in support of the 2008 Beijing Olympic Games.
- (2) The higher attendance from July to October 2012 as compared with the same period in previous years can be attributed to the introduction of the Public Swimming Pool Monthly Ticket Scheme from 5 July 2012.
- (3) North Kwai Chung Jockey Club Swimming Pool is an outdoor swimming pool which is closed from January to March and from November to December every year.

(iii) Kwai Shing Swimming Pool

<i>Month</i>	<i>Monthly Admission</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	Closed	Closed	Closed	Closed	Closed
February	Closed	Closed	Closed	Closed	Closed
March	Closed	Closed	Closed	Closed	Closed
April	6 157	4 562	4 609	5 884	5 401
May	18 343	18 822	18 930	21 293	19 517
June	15 543	21 910	18 655	22 997	21 206

<i>Month</i>	<i>Monthly Admission</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
July	68 731	30 809	32 531	30 432	30 680
August	60 250	29 051	32 080	32 539	32 653
September	37 508	16 535	15 985	17 109	18 712
October	13 660	12 193	11 054	9 850	10 689
November	Closed	Closed	Closed	Closed	Closed
December	Closed	Closed	Closed	Closed	Closed
Total	220 192	133 882	133 844	140 104	138 858

Notes:

- (1) The higher attendance in 2008 can be attributed to the implementation of a "Free Admission Scheme" from July to September 2008 in support of the 2008 Beijing Olympic Games.
- (2) The higher attendance from July to October 2012 as compared with the same period in previous years can be attributed to the introduction of the Public Swimming Pool Monthly Ticket Scheme from 5 July 2012.
- (3) Kwai Shing Swimming Pool is an outdoor swimming pool which is closed from January to March and from November to December every year.

(II) Monthly Admission Figures of Public Swimming Pools in Tsuen Wan District

(i) *Shing Mun Valley Swimming Pool*

<i>Month</i>	<i>Monthly Admission</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	36 190	28 410	33 444	31 417	28 454
February	24 909	38 077	26 185	27 182	36 010
March	34 019	35 774	35 190	36 988	41 448
April	36 502	32 880	30 563	42 944	44 657
May	23 271	21 336	24 125	25 519	27 489
June	20 093	27 720	25 813	32 032	29 976
July	111 826	83 479	86 095	85 097	81 350
August	99 978	78 488	88 659	94 080	93 654
September	68 891	48 187	47 191	52 582	58 188
October	31 840	35 219	37 792	40 536	44 257

<i>Month</i>	<i>Monthly Admission</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
November	29 942	31 474	37 316	45 420	43 657
December	37 478	35 728	36 307	36 577	Not applicable
Total	554 939	496 772	508 680	550 374	529 140

Notes:

- (1) The higher attendance in 2008 can be attributed to the implementation of a "Free Admission Scheme" from July to September 2008 in support of the 2008 Beijing Olympic Games.
- (2) The higher attendance from July to October 2012 as compared with the same period in previous years can be attributed to the introduction of the Public Swimming Pool Monthly Ticket Scheme from 5 July 2012.

(ii) *Tsuen King Circuit Wu Chung Swimming Pool*

<i>Month</i>	<i>Monthly Admission</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	Closed	Closed	Closed	Closed	Closed
February	Closed	Closed	Closed	Closed	Closed
March	Closed	Closed	Closed	Closed	Closed
April	1 598	1 206	670	1 285	1 281
May	5 172	4 838	4 834	4 914	4 862
June	3 858	6 158	4 632	6 848	5 407
July	24 469	11 396	10 336	10 357	10 548
August	23 088	10 308	10 891	11 413	11 649
September	14 810	6 816	5 374	5 695	6 629
October	5 382	4 528	3 249	3 068	3 770
November	Closed	Closed	Closed	Closed	Closed
December	Closed	Closed	Closed	Closed	Closed
Total	78 377	45 250	39 986	43 580	44 146

Notes:

- (1) The higher attendance in 2008 can be attributed to the implementation of a "Free Admission Scheme" from July to September 2008 in support of the 2008 Beijing Olympic Games.
- (2) The higher attendance from July to October 2012 as compared with the same period in previous years can be attributed to the introduction of the Public Swimming Pool Monthly Ticket Scheme from 5 July 2012.
- (3) Tsuen King Circuit Wu Chung Swimming Pool is an outdoor swimming pool which is closed from January to March and from November to December every year.

Annex 2

Monthly Usage Rates for Sports Centres (Main Arena) in
Kwai Tsing and Tsuen Wan Districts
(from 2008 to November 2012)

(I) Monthly usage rates for sports centres (main arena) in Kwai Tsing District

(i) *Tsing Yi Sports Centre*

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	72	80	81	77	75
February	70	81	73	73	79
March	83	82	82	75	76
April	79	85	82	81	77
May	85	87	82	81	67
June	81	90	84	85	88
July	100	93	93	94	93
August	100	95	93	94	97
September	98	79	76	77	82
October	85	82	77	82	81
November	81	79	73	77	81
December	80	81	77	81	Not applicable
Average	85	85	81	81	81

(ii) *Cheung Fat Sports Centre*

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	57	66	69	68	63
February	61	66	66	60	69
March	72	70	72	64	68
April	67	72	70	70	77
May	72	81	72	70	84
June	76	82	76	77	82
July	100	91	83	89	86
August	99	91	88	89	93

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
September	97	66	63	64	76
October	26	70	70	67	74
November	64	70	67	60	73
December	67	69	65	69	Not applicable
Average	72	75	72	71	77

(iii) Fung Shue Wo Sports Centre

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	67	70	75	72	68
February	68	74	66	66	75
March	77	75	76	74	75
April	72	78	78	77	77
May	76	80	72	73	75
June	76	82	79	78	78
July	100	88	80	83	85
August	100	88	86	86	93
September	98	66	66	66	70
October	74	74	72	72	72
November	70	76	71	70	72
December	70	76	70	70	Not applicable
Average	79	77	74	74	76

(iv) Lai King Sports Centre

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	71	65	Maintenance	75	63
February	70	78	59	76	78
March	79	76	75	79	79
April	74	74	73	77	79
May	82	80	78	77	79
June	82	81	80	79	78
July	100	93	90	91	92
August	97	94	92	92	96

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
September	99	72	75	75	82
October	79	78	81	79	83
November	81	77	81	79	81
December	74	Maintenance	71	75	Not applicable
Average	82	79	78	80	81

(v) *Osman Ramju Sadick Memorial Sports Centre*

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	72	75	83	80	73
February	72	79	76	77	82
March	85	83	61	77	78
April	86	84	Maintenance	86	84
May	90	91	Maintenance	85	89
June	88	90	86	85	87
July	99	95	90	94	93
August	100	95	95	94	98
September	99	75	78	81	82
October	83	81	80	82	85
November	84	83	81	81	87
December	81	83	80	81	Not applicable
Average	87	85	81	84	85

(vi) *Tai Wo Hau Sports Centre*

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	77	74	80	73	72
February	79	75	77	74	76
March	73	76	76	78	76
April	68	80	80	78	86
May	Maintenance	82	83	78	84
June	100	81	86	84	85
July	100	93	91	92	94
August	100	94	92	93	96

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
September	99	73	76	78	83
October	78	78	79	82	85
November	82	80	79	84	84
December	77	82	74	82	Not applicable
Average	85	81	81	81	84

(vii) *North Kwai Chung Tang Shiu Kin Sports Centre*

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	62	56	62	63	69
February	61	65	63	60	69
March	73	69	68	66	72
April	64	70	70	74	78
May	69	74	73	70	73
June	73	78	77	76	75
July	100	90	86	90	88
August	100	92	90	91	95
September	100	65	68	67	73
October	62	68	71	68	73
November	69	71	69	65	69
December	69	Maintenance	67	67	Not available
Average	75	73	72	71	76

Note:

The higher utilization rate from July to September 2008 can be attributed to the implementation of a "Free Admission Scheme" in support of the 2008 Beijing Olympic Games.

(II) Monthly usage rates of sports centres (main arena) in Tsuen Wan District

(i) *Tsuen King Circuit Sports Centre*

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	75	80	76	73	73
February	74	77	67	72	76

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
March	81	79	76	78	77
April	78	82	82	81	83
May	Maintenance	91	82	78	83
June	Maintenance	88	86	83	83
July	100	95	91	92	83
August	100	94	92	92	83
September	100	75	73	77	79
October	85	79	79	80	85
November	81	74	82	81	83
December	76	76	76	82	Not applicable
Average	85	83	80	81	81

(ii) Wai Tsuen Sports Centre

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	78	76	83	82	78
February	73	80	80	79	80
March	85	81	86	80	80
April	82	84	85	84	87
May	91	89	88	88	88
June	89	91	90	85	87
July	100	94	91	91	90
August	100	92	94	92	95
September	99	76	79	76	80
October	84	83	83	90	90
November	81	82	76	Maintenance	88
December	81	82	79	80	Not applicable
Average	87	84	85	84	86

(iii) Tsuen Wan West Sports Centre

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	77	75	78	41	72
February	77	81	79	65	80

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
March	83	81	79	72	84
April	80	83	83	80	86
May	85	88	86	79	83
June	86	89	91	86	87
July	100	97	94	96	96
August	100	97	97	96	98
September	100	77	80	78	83
October	79	82	80	81	85
November	81	79	Maintenance	79	83
December	80	81	Maintenance	78	Not applicable
Average	86	84	85	78	85

(iv) Yeung Uk Road Sports Centre

<i>Month</i>	<i>Usage Rate (%)</i>				
	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	72	72	78	78	72
February	74	77	75	74	74
March	78	79	76	73	78
April	77	80	82	78	81
May	85	85	84	80	86
June	88	89	87	85	82
July	100	94	92	92	92
August	100	95	98	96	96
September	100	74	74	77	81
October	81	78	78	80	Maintenance
November	78	76	79	83	Maintenance
December	77	77	76	77	Maintenance
Average	84	81	82	81	82

Note:

The higher utilization rate from July to September 2008 can be attributed to the implementation of a "Free Admission Scheme" in support of the 2008 Beijing Olympic Games.

Cases of Inmates Inflicting Harm on Themselves

11. **MR DENNIS KWOK** (in Chinese): *President, the media has recently reported that in the past two years, there were more than a hundred cases of inmates inflicting harm on themselves, which resulted in quite a number of deaths. In this connection, will the Government inform this Council:*

- (a) *of the respective numbers of inmates who inflicted harm on themselves and died as a result in the past three years;*
- (b) *whether the authorities have conducted any investigation into the causes for inmates inflicting harm on themselves; if they have, of a breakdown of such cases in the past three years by the cause; if not, the reasons for that; and*
- (c) *of the details of the authorities' measures to prevent inmates (especially persons in solitary confinement) from inflicting harm on themselves?*

SECRETARY FOR SECURITY (in Chinese): *President, the Correctional Services Department (CSD) is committed to providing a secure, safe, humane, decent and healthy environment for persons in custody. Correctional services staff attach great importance to ensuring the safety of inmates, including preventing their self harm behaviour.*

- (a) *The number of self harm cases by inmates and suicidal death in the past three years is as follows:*

<i>Year</i>	<i>Number of cases</i>		<i>Total</i>
	<i>Self harm (non-fatal)</i>	<i>Self harm (fatal)</i>	
2010	86	4	90
2011	95	0	95
2012 (up to mid-December)	77	2	79

- (b) The CSD is very concerned about all self harm cases of inmates. Whenever there are such cases, correctional services staff and clinical psychologists will counsel the inmate concerned appropriately, including investigating into and understanding the causes for such self harm behaviour. All fatal cases will be reported to the police. The Coroner's Court will subsequently conduct an inquest into the cause of death of the inmate concerned. The CSD would study the findings and judgment of the Coroner's Court and follow up as appropriate.

Causes for inmates inflicting harm on themselves are usually very complicated due to the variation in their background, offence committed and sentence. As such, the CSD cannot categorize the cause of each case or provide any statistics. In general, the major causes for these self harm cases include family problems, emotional problems, health issues, as well as the residual effects of drug abuse, and so on.

- (c) The CSD has been taking all practicable measures to prevent inmates from inflicting harm on themselves.

The CSD staff stay highly vigilant while on duty and closely monitor the behaviour of inmates, particularly those who have recently been admitted to correctional institutions, so as to detect as early as possible whether they have any self harm tendency (for example, whether they feel depressed, alienate themselves and mutter to themselves). The CSD staff will refer those inmates who are identified to have a risk of harming themselves to clinical psychologists for assessment and counselling. Medical officers also conduct daily check of inmates in separate confinement. Those inmates are also visited by clinical psychologists and chaplains.

On staff training, the CSD regularly provides in-service training for front-line officers on how to prevent inmates from inflicting harm on themselves. Drills are also conducted from time to time to ensure that officers can act promptly and appropriately to save inmates who harm themselves.

In respect of cell design, many facilities (such as toilets, mirrors, fire sprinklers and washing basins) in correctional institutions are specifically designed to prevent inmates from using any broken parts of such facilities to harm themselves or using such facilities as supporting points to hang themselves, thereby reducing the possibility of inmates harming themselves.

In addition, the CSD provides psychological counselling services and organizes rehabilitation activities for inmates (such as group activities or talks). The department also helps them develop positive life values through publicity items such as posters and pamphlets, and conducts publicity and public education campaigns in conjunction with non-government organizations to encourage inmates' relatives and friends to show their care and support, with a view to preventing the self harm behaviour of inmates.

Combating Cyber-bullying Activities

12. **MR CHAN KIN-POR** (in Chinese): *President, it has been reported that incidents of cyber-bullying happen in Hong Kong from time to time. For instance, the posting of comments recently by a bride-to-be on the amount of money gift for her wedding banquet on a social networking website has immediately drawn netizens attacking her with insulting comments and exposing her personal data and privacy (including her photographs, date and venue of the wedding banquet, place of work and job title, home address, medical history and family members' photographs, and so on), and some netizens even harassed her with telephone calls. As a result, that lady felt distressed. Also, some netizens have set up a discussion forum on the Internet dedicated to hurling personal insults at a university student who was a top achiever in the Hong Kong Certificate of Education Examination, and they posted more than a thousand insulting comments on that student's blog. In addition, a nurse uploaded the information of a patient to a social networking website for ridicule by her net friends. In this connection, will the Government inform this Council:*

- (a) *of the number of complaints about cyber-bullying received by the Office of the Privacy Commissioner for Personal Data in the past five years, the number of such complaints which had been followed*

up (with a breakdown by result of the follow-up actions), and the number of those complaints which had not been followed up;

- (b) of the number of cases in the past five years in which the authorities had carried out criminal investigations into whether those people involved in cyber-bullying activities had breached any law, with a breakdown by the type of offence; the number of cases in which the authorities had instituted prosecutions and the penalties imposed by the Court on those convicted; as well as the number of cases in which prosecution was not instituted;*
- (c) for those cyber-bullying activities not involving criminal offences, whether the authorities have put in place any measures to help protect the victims from such nuisance; if they have, of the details; if not, the reasons for that; and*
- (d) given that a number of state governments in the United States have already enacted anti-cyber-bullying legislation and made cyber-bullying an offence, whether the Government will make reference to such practice in the United States and enact anti-cyber-bullying legislation; and whether it will promote school teachers, social workers and parents playing a more important role in resolving cyber-bullying problems; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, regarding the four-part question, the Administration's reply is as follows:

- (a) At present there is no statute law in Hong Kong defining or governing "cyber-bullying". In the past five years, the Office of the Privacy Commissioner for Personal Data received four cases in which the complainees were alleged to have caused harassment to others using insulting phraseology, words or pictures on the Internet, in breach of the Personal Data (Privacy) Ordinance. Of these cases, three were not pursuable because the complainant failed to identify the complainees; or there was no evidence to support the allegation;

or there was no *prima facie* evidence to show that there was contravention of the Personal Data (Privacy) Ordinance. The remaining case is being dealt with.

- (b) The police have not kept any related statistics of "cyber-bullying" acts. Nevertheless, depending on the circumstances of individual case, the publication of inappropriate statements on the Internet may involve different offences, such as criminal intimidation or blackmail.
- (c) The Office of the Government Chief Information Officer (OGCIO) always attaches great importance to information security and online safety. Through different publicity channels, the OGCIO promotes security awareness among the public, educates them on the security best practices of using online communications tools and participating in social networking activities, guides them on how to establish the right attitude of using the Internet and how to protect themselves when using the Internet. Protection measures include not responding to online provocation and not confronting stalkers. The OGCIO has provided the above information on the information security portal <www.infosec.gov.hk> for reference by organizations and citizens.

The Administration will continue to promote online security awareness among the public, and will encourage them on the careful handling of inappropriate online content and harmful information when using new communications media, with a view to protecting themselves and reducing the occurrence and spread of cyber-bullying incidents.

- (d) All bullying activities (cyber or not) are governed by relevant legislation if they involve criminal offences. As for those bullying activities (cyber or not) that do not involve criminal offences, we believe it is more appropriate to promote security awareness among the public and educate them on how to protect themselves when using the Internet.

The Education Bureau adopts a Zero Tolerance policy on school bullying, including cyber-bullying. The Education Bureau has issued a circular to all schools asking them to take the matter seriously and implement positive measures to ensure the safety of students at school and create a harmonious school environment. Relevant resource package materials, which provide guidelines and advice for schools, have been uploaded on the Education Bureau webpage. The Education Bureau regularly organizes seminars and workshops to strengthen teachers' capability of preventing and handling student bullying problems.

Moreover, the Social Welfare Department has commissioned three non-governmental organizations to each launch a three-year pilot cyber youth outreaching project (pilot project) with funding support from the Lotteries Fund with effect from August 2011. The three pilot projects adopt the strategy of multi-level intervention and use various cyber means to proactively reach out to young people, in particular at-risk or hidden youths, including those who engage in or might engage in at-risk behaviour like cyber-bullying and provide counselling services to them. Those who are assessed to be in need of follow-up services will be connected to the existing mainstream social services for better service synergy. These pilot projects also provide education to teachers, students, social workers, parents and the community through talks, seminars, and so on, to enhance their sense of self-protection and their respect for others in the cyber world.

Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities

13. **MR SIN CHUNG-KAI** (in Chinese): *President, the first and second phases of the Public Transport Fare Concession Scheme for the Elderly and Eligible Persons with Disabilities (the Concession Scheme) commenced on 28 June and 5 August 2012 respectively. Under the Concession Scheme, the elderly and eligible persons with disabilities may travel on the general Mass Transit Railway (MTR) lines, franchised buses and ferries anytime at a*

concessionary fare of \$2 a trip. In this connection, will the Government inform this Council:

- (a) whether it knows the monthly patronage of MTR's domestic services and various franchised bus services in the past three years by persons who were eligible to benefit from the Concession Scheme;*
- (b) given that the authorities have indicated that the third phase of the Concession Scheme will commence in the first quarter of 2013 to include services of buses of the New Lantao Bus and designated ferries, of the exact implementation date of the third phase by the authorities; whether that phase can commence earlier within this year; if not, of the reasons for that;*
- (c) of the number of person-trips benefiting from the fare concessions under the first and second phases of the Concession Scheme so far, as well as the total amount involved in the concessions offered; together with a breakdown by month and public transport operator; and*
- (d) given that at present, the elderly are offered free rides on ferries of the Star Ferry and the Government reimburses part of the fare revenue forgone to the operator concerned, whether it has plans to extend such an arrangement to trams; if it has, when the relevant arrangement can be implemented; if not, of the reasons for that, and the difficulties faced by the authorities?*

SECRETARY FOR LABOUR AND WELFARE (in Chinese): President, the Concession Scheme, as announced in the 2011-2012 Policy Address, is to enable elderly people aged 65 or above and eligible persons with disabilities⁽¹⁾ to travel on the general MTR lines, franchised buses and ferries any time at a concessionary fare of \$2 per trip. The Concession Scheme aims to help build a caring and inclusive society by encouraging the elderly and eligible persons with disabilities to participate more in community activities. On the premises that

(1) This refers to recipients under the Comprehensive Social Security Assistance Scheme aged between 12 and 64 with 100% disabilities and recipients of Disability Allowance in the same group.

public transport operators concerned will continue to absorb the cost of existing concessions that they are voluntarily offering to the elderly and persons with disabilities, the Government will provide additional resources on an accountable and reimbursement basis, to cover the fare differential between the nominal fare and \$2.

My reply to Mr SIN Chung-kai's question is as follows:

- (a) In the past three years, the average daily passenger trips⁽²⁾ of elderly and eligible persons with disabilities, who used the MTR domestic services and the franchised bus services, are set out in the table below:

	<i>MTR</i>		<i>Franchised Buses</i> ⁽³⁾
	<i>Elderly</i>	<i>Eligible Persons with Disabilities</i>	<i>Elderly</i> ⁽⁴⁾
2009	182 600	17 800	337 000
2010	199 000	29 000	346 000
2011	222 000	35 500	361 000

Notes:

- (3) Before the Concession Scheme was implemented, persons with disabilities and other passengers alike paid the same bus fare according to their age when riding on franchised buses. Hence, prior to the launch of the Scheme, the franchised bus companies have not kept the passenger figures of persons with disabilities.
- (4) Including Citybus (Franchise 1 — Hong Kong Island and cross harbour routes)'s fare concessions applicable to persons aged 60 or above.

(b) and (c)

Under the Concession Scheme, the Government will use a Centralized Settlement Platform tailor-made for the Concession Scheme to obtain accurate daily patronage records for calculating, on an accountable basis, the fare revenue forgone that needs to be reimbursed to the public transport operators concerned. To benefit the elderly and eligible persons with disabilities soonest possible,

(2) Counting only those passengers who used Octopus to pay their fares.

while it takes time to develop the Centralized Settlement Platform, the Government has already implemented the Concession Scheme on the MTR on 28 June this year, and extended the Concession Scheme to four franchised bus companies (namely the Kowloon Motor Bus, Citybus, New World First Bus and Long Win Bus) on 5 August. Since staff of the Transport Department have to directly examine the applications submitted by public transport operators for reimbursement of their revenue forgone on an accountable basis, the process takes time. Initial data show that by the end of October this year, the average daily passenger trips of beneficiaries enjoying the Concession Scheme was about 627 000. For details, please refer to the table below:

	<i>Elderly</i>	<i>Eligible Persons with Disabilities</i>	<i>Total</i>
MTR	204 000 ⁽⁵⁾	33 000	237 000
Franchised Buses	351 000	39 000	390 000
Total	555 000	72 000	627 000

Note:

- (5) Excluding MTR Corporation Limited (MTRCL)'s own \$2 concessionary fare offered on Wednesday, Saturday and non-Sunday public holidays.

As of end-October this year, MTRCL's revenue forgone as a result of implementing the Concession Scheme was around \$49 million; and that for the four franchised bus companies was around \$65 million.

Phase 3 of the Concession Scheme, covering the New Lantao Bus and ferry services, involves a total of 13 public transport operators. Given the many operators involved as well as their diversities and differences in fare collection system, mode of operation, accounting and auditing arrangements, the preparatory work of Phase 3 necessarily takes time. Moreover, unlike MTRCL and the four franchised bus companies, the operators concerned are generally of small scale. Some of them do not have computerized fare collection support system, and some are even not using Octopus readers to collect fares. They need to rely on the Centralized Settlement Platform being ready in order to record the daily

patronage related to the Concession Scheme and the route information. This will facilitate them in calculating the revenue forgone as a result of implementing the Concession Scheme, and to apply for reimbursement from the Government.

To prepare for the launching of the Concession Scheme, all operators concerned are now proceeding with the relevant system enhancement and testing to ensure that the enhanced system would support the operation of the Concession Scheme in a reliable, stable and accurate manner. The Government is closely liaising with the operators concerned with a view to launching Phase 3 of the Concession Scheme around March 2013.

- (d) The Government has all along been encouraging public transport operators to reduce fare and offer fare concessions as far as possible to help passengers lower their transport expenses. In doing so the operators take into account their respective operating and financial conditions, overall economic environment and passenger needs. It is the commercial decision of individual operators as to whether to provide fare concessions and what the details of the concessions are.

The Star Ferry has since October 1992 been voluntarily offering free rides for elderly aged 65 or above and this measure is not related to the Concession Scheme. With regard to the arrangement for the Government to reimburse Star Ferry with the revenue forgone arising from offering free rides to the elderly, it was approved as an exceptional assistance measure when Star Ferry's 2011 fare increase application was examined, having regard to its financial situation and business prospects.

As for tram service, the Hong Kong Tramways Limited (HKT) has since 1994 been offering concessionary fares for the elderly. Currently, the tram fare for elderly aged 65 or above is \$1.1. In view of the current operating as well as financial situation of HKT, and considering that public money should be appropriately used, the Government has no plan to subsidize HKT to offer free rides for the elderly at this juncture.

Support for Mentally-ill Persons

14. **MISS ALICE MAK** (in Chinese): *President, it has been learnt that several incidents in which persons suspected of suffering from mental illnesses wounded other people have happened recently. Although the Hospital Authority (HA) has, in recent years, allocated additional resources to strengthen mental health services and implemented the Case Management Programme for people with severe mental illness (the Programme) since 2010-2011, incidents involving mentally-ill persons wounding other people still happen, arousing public concern about whether community support provided by the authorities to the mentally-ill and the ex-mentally-ill remains inadequate. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have compiled statistics on the number of mentally-ill persons in the territory; whether they know, apart from some 187 000 mentally-ill persons currently receiving psychiatric specialist services provided under the HA, the number of mentally-ill persons currently receiving treatment (including medical treatments and psychotherapy) in other medical institutions; of a breakdown of the current number of mentally-ill persons, by the type of mental illness and risk level, who have undergone risk assessment by the HA's multi-disciplinary team of healthcare personnel and been considered suitable for discharge from hospital to continue to receive treatment and rehabilitation in the community;*
- (b) *whether it knows, the number of mentally-ill persons currently waiting for the HA's psychiatric out-patient services and their average waiting time; the respective numbers of psychiatrists, psychiatric nurses and psychiatric medical social workers currently employed by the HA;*
- (c) *whether it knows, the respective numbers of case managers and community nurses currently involved in implementing the aforesaid Programme, and the respective average numbers of mentally-ill persons followed up by each case manager and each community nurse; whether the authorities have assessed the effectiveness of the Programme; if they have, of the assessment results; if not, the reasons for that;*

- (d) *whether it knows, the number of requests for help received by the 24-hour mental health hotline provided by the HA to West Kowloon since the service was launched in January this year, and the number of persons who had been referred to receive psychiatric treatment; whether the HA has plans to expand such service to cover other districts;*
- (e) *given that the turnover of psychiatric nurses in public hospitals has been on the rise in the past five years, whether the authorities have plans to step up recruitment and training of psychiatric nurses so as to maintain service quality; if they have, of the details; if not, the reasons for that; and*
- (f) *given that the authorities had indicated earlier that, at district level, the Social Welfare Department (SWD) and the HA maintained close liaison with other related government departments (including the Hong Kong Police Force and the Housing Department), whether the authorities have assessed the effectiveness of the existing inter-departmental communication mechanism established to provide support for mentally-ill persons; if they have, of the assessment results; if not, the reasons for that; of the measures taken by the authorities to further strengthen the HA's co-operation with relevant government departments, so as to follow up mentally-ill persons' rehabilitation in the community more effectively?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, the Government is committed to promoting mental health of the public, and will adjust the mode for delivery of mental health services having regard to social needs and international development. It is the international trend to gradually focus on community and ambulatory services in the treatment of mental illness, and to allow the early discharge of mental patients when their conditions are stabilized for treatment in the community. Hence, in recent years the Government has strengthened its community psychiatric services in line with this direction in an effort to allow more patients who are suitable for discharge to receive treatment in the community, so that they can reintegrate into the community and start a new life as early as possible. The Government has increased the funding allocation for mental health services on a continuous basis.

The actual expenditure in 2011-2012 increased by about 30% when compared with that in 2007-2008, with the total amount of expenditure for the past five years exceeding \$19 billion.

My reply to the various parts of the question is as follows:

- (a) At present, about 187 000 patients with varying degree of mental health problems are receiving psychiatric specialist services provided by the HA. The more common types of mental disorders among the patients currently followed up by the HA can be broadly classified as follows:

<i>Types of mental disorders</i>	<i>Number of patients who received the HA's psychiatric services in 2011-2012 (rounded to the nearest hundred)</i>
Schizophrenia spectrum disorders	44 600
Affective Disorders	49 500
Dementia	11 300

Note:

The total sum of the above three broad categories of patients does not represent the total number of patients of the HA's psychiatric specialist services.

To facilitate early identification and appropriate follow-up of mental patients with special needs, the HA will, according to the clinical conditions of individual patients (including their medical history, existing mental conditions, whether there is adequate support for the patients in the community, and so on), broadly categorize them into three types according to their risk level: (i) for patients assessed to be of higher risk, such as those with greater propensity to violence or record of severe criminal violence, the HA will arrange community nurses or case managers with experience in community mental health service to follow up on their cases continuously, closely and in an intensive manner, including making arrangements for them to be admitted into hospital for treatment where necessary; (ii) for patients assessed to be of medium risk, for example, those with general severe mental illness, their case managers will provide them

with continuous and personalized support according to their clinical conditions so as to help them recover and reintegrate into the community when their conditions are stabilized; (iii) for those assessed to be of low risk, such as those with common mental disorders, attending doctors will provide them with suitable treatment, including providing them with vocational rehabilitation services, and so on, according to their clinical needs. In addition, the multi-disciplinary teams of psychiatric departments will review each case on a regular basis having regard to the needs of individual patients and their risk profiles, to ensure that the patients are given suitable and comprehensive support.

We do not have statistics on the number of mental patients receiving treatments or follow-ups within the private medical sector.

- (b) As at the end of September 2012, the median waiting time for first appointment at psychiatric specialist out-patient clinics under the HA is around seven weeks, and the number of persons waiting for treatment is about 13 000. At present, there are about 330 psychiatrists, 2 160 psychiatric nurses and 240 psychiatric medical social workers providing services for patients at psychiatric specialist out-patient clinics under the HA.
- (c) To enhance the community support services for mental patients, the HA first launched a Case Management Programme in three districts (Kwun Tong, Kwai Tsing and Yuen Long) for patients with severe mental illness in April 2010. The case managers under the Programme work closely with various service providers, particularly the Integrated Community Centre for Mental Wellness (ICCMWs) set up by the SWD, in providing intensive, continuous and personalized support to patients with severe mental illness living in the community. Besides, case managers also provide support for the patients' families so as to help patients reintegrate into the community in all dimensions. By 2012-2013, the HA has progressively extended the programme to a total of 12 districts (namely, Eastern, Wan Chai, Southern, Central and Western, Islands, Kwun Tong, Sham Shui Po, Kowloon City, Kwai Tsing, Sha Tin, Tuen Mun and Yuen Long) to benefit more patients. As at the end

of September 2012, the HA employed a total of 195 healthcare and allied health personnel with experience in community mental health services as case managers for the provision of intensive and personalized community support to over 11 000 patients living in these districts.

Currently, each case manager is providing community support to some 50 to 60 patients. The workload varies from one case manager to another, depending on factors such as patients' clinical conditions and degrees of risk, and so on. The HA will continue to recruit more case managers to further strengthen its manpower as well as deploying and adjusting its manpower flexibly having regard to the operational needs and service demands in order to meet the needs of various districts.

Regarding assessment of the Programme, the HA has commissioned the Department of Psychiatry of the University of Hong Kong to undertake a detailed study and analysis of the implementation and effectiveness of the Case Management Programme. The findings of the study are expected to be released in mid-2013.

- (d) The Mental Health 24-hour Hotline service has been in operation for more than 30 years with the whole local population as its service targets. Since January 2012, the HA has further strengthened the service by deploying psychiatric nurses to provide telephone psychiatric support service to members of the public from various districts in the territory, and named the hotline as "Mental Health Hotline". As at the end of September 2012, the "Mental Health Hotline" handled a total of over 11 300 phone calls. Most of the users of the service were patients currently receiving psychiatric services provided by the HA while the rest were family members of patients as well as members of the public.
- (e) The turnover rate of the HA's psychiatric nurses has remained stable at 2% to 3% over the past three years. In recent years, tremendous efforts have been made by the HA to recruit psychiatric nurses. In the past three years, the number of psychiatric nurses recruited increased from 48 in 2009-2010 to 99 in 2011-2012.

On the training front, we anticipate that in the coming years, there will be some 160 newly graduated psychiatric nurses each year. The Institute of Advanced Nursing Studies of the HA will run three to four psychiatric training courses each year and it is expected that these courses will on average produce over 140 psychiatric nurses each year between 2012-2013 and 2015-2016. Looking ahead, the HA will continue its efforts to recruit and train more nurses to meet the service demand.

- (f) As the mental health policy and provision of related service programmes involve a number of Policy Bureaux and government departments, the Food and Health Bureau assumes the overall responsibility of co-ordination and works in close collaboration with the Labour and Welfare Bureau, Department of Health, the HA, the SWD and other relevant government departments. The directions of our mental health policy is to adopt a multi-disciplinary and cross-sectoral team approach in delivering a comprehensive range of mental health services which are accessible by people in need on a continuous basis. We have also put in place a platform for communication and a mechanism for co-ordination at various levels to foster collaboration between the medical and social service sectors.

At the level of policy formulation, we have a Working Group on Mental Health Services chaired by the Secretary for Food and Health and comprised of stakeholders with relevant service experience from the medical, social service and other related sectors to assist in the formulation and review of our mental health policy and services.

At the level of service delivery, SWD Headquarters and HA Head Office have, since 2010, set up a Central Co-ordinating Group in collaboration with the non-governmental organizations operating ICCMW to discuss the co-ordination of the service strategies and explore more effective models of collaboration.

At district level, District Social Welfare Officers of the SWD and the Chiefs of Service of the Department of Psychiatry in various HA clusters hold working group meetings at regular intervals to maintain

close liaison with psychiatric medical social workers and ICCMWs in the respective districts as well as other relevant government departments, including the police and the Housing Department. When handling cases involving mental patients, various departments will hold case conferences where necessary in order to formulate rehabilitation plans for the patients. The existing multi-disciplinary team approach and the inter-department communication mechanism are functioning effectively. We will continue to strengthen our co-ordination role and provide more comprehensive and intensive support for mental patients.

Impact of Construction Works of Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link on Structure of Nearby Buildings

15. **MS CLAUDIA MO** (in Chinese): *President, earlier on, some residents in Tai Kok Tsui found numerous cracks on the piles on the lower floors and the ground level of their buildings, and they suspected that these cracks were related to the boring works of the Hong Kong Section of Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL), which were being carried out in the vicinity of their buildings. Some registered building surveyors have confirmed upon site inspections that the cracks on some of the piles of the buildings were formed recently because of the impact of external forces. The MTR Corporation Limited (MTRCL) is currently investigating whether the formation of the cracks is related to XRL works, and it will prepare survey reports in this regard. These residents have indicated that the cracks on the buildings have made them nervous and panic and they worry that there are problems with the structure of the buildings, which pose potential risks to life and property. In this connection, will the Government inform this Council:*

- (a) *whether, prior to the commencement of XRL works, the Buildings Department, the Highways Department and other relevant government departments had assessed in detail the impact of XRL works on underground facilities and buildings on the ground; if they had, of the assessment outcome; if not, the reasons for that;*

- (b) *whether it will request MTRCL to complete expeditiously and make public the survey reports for reference of and follow-up by the public; if it will, of the arrangements; if not, the reasons for that;*
- (c) *of the total number of complaints received so far by the authorities and MTRCL about building structure being affected by XRL works as well as the contents of the complaints; and*
- (d) *whether the authorities have any new measures to reduce in future the chance of recurrence of incidents of infrastructure works affecting the structural safety of buildings?*

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, in January 2010, the Government entrusted the construction of the Hong Kong section of the XRL to the MTRCL. The main tunnels along the urban sections of the XRL project are built with the use of tunnel boring machines (TBMs). The two TBMs for excavating the Mei Lai Road to Hoi Ting Road tunnel commenced operation in February and April 2012 respectively, drilling in the north and south directions from the junction of Sham Mong Road and Hing Wah Street West, Sham Shui Po. Operating beneath Sham Mong Road and under Fu Cheong Estate and Nam Cheong Estate, the south-bound TBM conducted tunnelling works in the Tai Kok Tsui area smoothly between mid-September and mid-November 2012, and is on its way towards Yau Ma Tei.

My reply to the four parts of Ms MO's question is as follows:

- (a) The Government and the MTRCL attach great importance to the impact of the XRL project on the structural safety of nearby community facilities and buildings. At the design stage, the MTRCL had appointed qualified professionals to prepare the works plans and submitted such plans to the Government for vetting after conducting geological assessments and developing monitoring plans. The Highways Department and the Civil Engineering and Development Department, together with the other relevant departments, had scrutinized these plans with regard to building, structural and geotechnical works according to the requirements under the Buildings Ordinance and relevant legislation.

In addition, the MTRCL had carried out detailed pre-construction investigation on the geology at the tunnel site and its surroundings apart from thorough inspection of the relevant plans and records. The impact during construction on underground facilities and the buildings above the railway tunnel and in the vicinity had also been evaluated, including an assessment on the existing conditions of the buildings on the ground and the impact of the tunnelling works on their structural integrity, and from which the most prudent methodology for implementation and appropriate preventive procedures had been devised. Moreover, the MTRCL had separately appointed professionals to review the assessment results to ensure that all the works were in line with the best international practices currently in use. According to the assessment results, the tunnelling works would not affect the structural integrity of the buildings.

Prior to the commencement of the works, the MTRCL will, after obtaining the consent of relevant owners, conduct condition survey for the buildings near the railway alignment to record the existing conditions of the buildings and install sufficient monitoring points around the site boundary to monitor the impact of the tunnelling works on the overall structural integrity of the buildings in the neighbouring areas, with a view to ensuring safety and compliance of the works with the design and statutory requirements.

- (b) During railway construction, upon receipt of reports from owners/occupiers on issues in their flats/buildings allegedly caused by the XRL works, the MTRCL will contact the owner/occupier concerned within one working day to arrange joint site inspection by the project team, staff of its contractors and the owner/occupier. During the inspection, the related conditions will be recorded and professional assessment conducted. To safeguard the interests of both parties, the case may be referred to an independent loss adjuster if necessary. After site inspection and examination of the case, the loss adjuster will conduct an assessment and the results of which will be provided to the owner/occupier and the MTRCL in writing.

Since September this year, the loss adjuster has been following up on the complaint cases raised by Tai Kok Tsui residents who suspected that the cracks in their buildings might be caused by the XRL works. After site inspection and examination of various information, the loss adjuster found no evidence pointing to the XRL works as the cause for the formation of the cracks in the buildings concerned, and have been sending written replies to the relevant residents since late November 2012 on the findings of the assessment.

To further address the concerns of the residents over the structural safety of buildings, the MTRCL had appointed an independent professional registered structural engineer to inspect the cracks in the buildings concerned and their structural integrity. The structural engineer confirmed the overall structural safety of the buildings concerned and in late November 2012 provided the inspection report to the incorporated owners, which would inform the relevant owners of the results.

- (c) As at 10 December 2012, the Government and the MTRCL received a total of 18 complaints about impact allegedly caused by the XRL works in the Tai Kok Tsui area, concerning cracks found in buildings, structures, flats and shops or minor ground settlement. Thus far, investigation results showed no evidence pointing to the XRL works as the cause for the formation of the cracks in or settlement of the buildings concerned.
- (d) The Railway Development Office of the Highways Department, the MTRCL and its contractors have been closely watching the monitoring data since the commencement of the XRL tunnelling works. The monitoring data collected in the Tai Kok Tsui area by the MTRCL indicate that there is no abnormal ground settlement and confirm the overall structural safety of the buildings, structures and other facilities around the works areas. Construction safety remains the prime concern of the MTRCL. It will continue to keep a close watch over the monitoring data of the works together with its contractors.

Vacant Private Residential Flats

16. **MR MA FUNG-KWOK** (in Chinese): *President, according to the Housing in Figures published by the Hong Kong Housing Authority in early 2012, while there are some 2.6 million residential flats in Hong Kong, there are only 2.35 million households. During the first nine months of 2012, the overall flat prices rose by 20%, surpassing the 1997 peak by 26%. It has been reported that the rents for private residential flats have increased for seven consecutive months. On the other hand, some members of the public have relayed to me that it is not uncommon to find a large number of flats being left vacant for a long period of time in some housing estates. In this connection, will the Government inform this Council:*

- (a) *whether the Government has drawn up a clear definition of "vacant properties"; if it has, of such definition; if not, the reasons for that; of the measures it had adopted in the past to check the actual situation of private residential flats being left vacant;*
- (b) *whether it knows the vacancy rates for private residential flats of various sizes and prices in the past five years (broken down in accordance with the following tables); and*

(i)

Size (sq m)	2007	2008	2009	2010	2011
Below 40					
40 to 69.9					
70 to 99.9					
100 to 159.9					
160 or above					

(ii)

Price (million dollars)	2007	2008	2009	2010	2011
2 or below					
2.01 to 6					
6.01 to 10					
10.01 to 20					
20.01 or above					

- (c) *whether the Government will consider introducing a "vacant property tax" so as to increase the cost for property owners to keep*

their residential flats vacant, with a view to releasing more residential flats into the market so as to increase the supply of flats, thereby alleviating the pressure of rising prices and rents for residential flats; if it will, of the details; if not, the reasons for that, and the circumstances under which it will consider introducing a "vacant property tax"?

SECRETARY FOR TRANSPORT AND HOUSING (in Chinese): President, our response to the three parts of the question raised by Mr MA are as follows.

- (a) The Rating and Valuation Department (RVD) conducts a survey every year to provide a snapshot of the year-end vacancy position of the private domestic stock. This survey comprises: (i) a full survey in respect of domestic premises completed within two calendar years; and (ii) a random sample survey covering 3% of the remaining premises. The survey findings are provided in the Government's annual publication known as the "Hong Kong Property Review".

According to the RVD's practice, if a unit is not physically occupied at the time of the survey, it will be treated as a "vacant property". Premises under decoration will also be treated as "vacant".

- (b) The breakdown of the vacancy rates of private residential properties in the past five years (2007 to 2011) by flat sizes are as follows:

<i>Size</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
Less than 40 sq m	2.9%	2.7%	2.5%	2.7%	2.3%
40 sq m to 69.9 sq m	5.3%	5.2%	4.1%	4.5%	4.0%
70 sq m to 99.9 sq m	6.4%	7.1%	6.6%	7.7%	7.7%
100 sq m to 159.9 sq m	7.5%	7.8%	9.6%	7.6%	9.2%
160 sq m or above	10.4%	11.1%	12.7%	12.9%	10.2%

As prices will change very often in accordance with market situation, it is difficult to have a meaningful comparison among the figures of different years. As such, all along we have not broken down vacancy rates by different value classes of private residential properties.

- (c) Figures from the RVD suggest that the overall vacancy rate of residential properties as at end 2011 was 4.3%, which was the lowest since 1997 and was below the average of 5% over the period from 1991 to 2010. Such a relatively low level of vacancy rate indicates that flat hoarding does not seem to be a root cause of the property market boom over the recent two or three years. Indeed, the exuberant residential property market in these few years is mainly a result of the abnormal low interest rate and abundant liquidity environment, as well as the tight supply of residential properties. As such, vacancy tax on residential properties may not be an effective measure to address the current housing situation. Nevertheless, the Government will continue to closely monitor the trend of the private residential property market, and will introduce suitable measures as necessary to ensure its healthy and stable development.

Improving Ease of Doing Business and Promoting Development of a Diversified Economy

17. **DR ELIZABETH QUAT** (in Chinese): *President, it has been reported that the report "Doing Business 2013" published by the World Bank indicates that, among the 185 economies compared in the report, Hong Kong has been ranked second, for seven consecutive years lagging behind Singapore which has been ranked first, on the overall ease of doing business. In respect of the ranking on starting a business, Hong Kong has slipped from the fifth to the sixth. The report points out that the costs for choosing a company name and obtaining the required certificates account for 1.9% of the costs for starting a business in Hong Kong, which is more than two times higher than the 0.6% in Singapore. According to the results of a public opinion survey conducted by a local newspaper, about 25% and 23% of the respondents respectively considered that the reasons for Hong Kong's ranking on ease of doing business lagging behind Singapore included the high costs for starting and closing a business and the shortage of talents. There have been comments that, in the past, Hong Kong was famous for providing ample opportunities for starting business, and attracted quite a number of talents to start business in Hong Kong. However, the current high costs for starting business in Hong Kong have led to low motivation for starting business, few people starting business and thus a drop in jobs created.*

Such situation has far-reaching implications for Hong Kong's future development. On the other hand, the Chief Executive stated in his election platform that "we need to formulate comprehensive policies to promote and support the pillar industries that are important to our economic development", and that "a diversified economy will give rise to a stronger middle class and better employment opportunities for our grassroots". In this connection, will the Government inform this Council:

- (a) whether the authorities have plans to introduce short, medium and long term measures for improving the ease of doing business in Hong Kong, so as to encourage the starting of business, attract talents to work in Hong Kong as well as step up training for local talents, thereby enhancing Hong Kong's competitiveness; if they have, of the details; if not, the reasons for that; and*
- (b) whether the authorities have formulated any short, medium and long term comprehensive policies on industries and measures, so as to boost and develop industries (particularly industries on technology), and promote the development of a diversified economy; if they have, of the details; if not, the reasons for that?*

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Chinese): President, we have followed up with the Economic Analysis and Business Facilitation Unit, the Financial Services and the Treasury Bureau, the Labour and Welfare Bureau and the Security Bureau in respect of the question raised by Member. A consolidated reply is provided below.

The Government is committed to improving the business environment. According to the World Bank's "Doing Business 2013 Report" published in October 2012, Hong Kong remains as the second best place for the ease of doing business in the world. Our global ranking has been up three places from the fifth since the "Doing Business 2007 Report" published six years ago.

It has been the Government's policy to provide an environment conducive to conducting businesses and rendering suitable assistance for the commercial and industrial sectors. From the macro point of view, Hong Kong's simple tax regime, low tax rate and excellent infrastructure, and so on, facilitate the

development of our commercial and industrial sectors and maintain our competitiveness in the world.

Reducing the Cost of Starting Business and Improving Company-related Legislation to Facilitate Business Development

With effect from 1 June 2012, the Government has abolished the capital duty levied on local companies under the Companies Ordinance, thereby reducing the cost of starting a business. On the other hand, the Legislative Council passed the new Companies Ordinance in July 2012 to provide a modernized legal framework for the incorporation and operation of companies and introduce a host of new measures to cater for the needs of small and medium enterprises (for example, streamlining the incorporation procedures and making the use of a common seal optional). The Government is making active preparations for the implementation of the new Ordinance in early 2014.

The Government will also continue to implement various business facilitation measures and programmes (for example, "Be the Smart Regulator" programme) on the advice of the Business Facilitation Advisory Committee and its task forces, with a view to further enhancing Hong Kong's overall business environment and long-term competitiveness.

Encouraging the Starting of Businesses

As regards encouraging the starting of businesses, in accordance with the request of the Financial Secretary in the 2012-2013 Budget, the Hong Kong Mortgage Corporation launched in June 2012 a Microfinance Scheme in collaboration with banks and non-governmental organizations. The Scheme includes providing business starters with a Micro Business Start-up Loan. The maximum loan amount is \$300,000 and the maximum loan tenor is five years. A principal repayment holiday for up to 12 months is available. In addition, subject to the needs of the business starters, the Scheme will provide them with supporting services such as mentorship and entrepreneurial training, so as to enhance their business skills and help them tackle problems in their daily business operations. As at 7 December, the Microfinance Scheme has approved about 40 Micro Business Start-up Loans with a total loan amount of more than \$10 million, providing substantial support to business starters.

Attracting Talents to Hong Kong and Stepping Up Training for Local Talents

The Government agrees that talents are important to the sustainable development of Hong Kong's industrial and commercial sectors. It is the Government's established policy objective to attract talents to Hong Kong. There are various existing talent admission schemes, including the General Employment Policy, Admission Scheme for Mainland Talents and Professionals, Quality Migrant Admission Scheme and Immigration Arrangements for Non-local Graduates, which attract professionals and talents from around the world to come to Hong Kong.

On training local talents, the Labour Department operates two youth employment resource centres called "Youth Employment Start" (Y.E.S.) to provide a series of support services to young people aged 18 to 29 with business aspirations or interests in pursuing self-employment. Apart from organizing regular training programmes on starting businesses or self-employment and offering free legal and accounting consultation services, Y.E.S. also provides fully-equipped workstations for use by young people starting their own businesses or engaged in self-employment.

In addition, the launch of the Qualifications Framework, the training programmes offered by the Vocational Training Council and the Employees' Retraining Board (ERB), and the funding support for manpower training programmes provided by the Small and Medium Enterprises Development Fund, the Internship Programme under the Innovation and Technology Fund (ITF) and Create Hong Kong are all conducive to increasing the competitiveness of manpower as well as the relevant industries. In particular, the ERB mainly provides eligible employees (aged 15 or above and with education at the sub-degree or below level) with market-driven and employment-oriented courses covering some 30 industries. The ERB also provides dedicated courses for target groups including non-engaged youth, ethnic minorities, the disabled, people recovered from work injuries and occupational diseases, rehabilitated ex-offenders as well as new arrivals. The ERB has been designing its courses with reference to the Qualifications Framework, providing courses at Levels 1 to 4 with a view to assisting trainees to obtain recognized and professional qualifications, thereby offering them a progression pathway.

Boosting the Development of Technology Industry

For the technology industry, the Government strives to create a conducive environment for the development of innovation and technology by enhancing the relevant hardware, policy and resources, with a view to facilitating the collaboration among the Government, industry, academic and research sectors. Latest support measures include the increase in funding ceiling and expansion of scope of ITF, the enhancement to the Small Entrepreneur Research Assistance Programme under ITF, the increase in the rebate level under the Research and Development (R&D) Cash Rebate Scheme, the extension of operating periods of four R&D Centres, and the commencement of Science Park Phase 3 project.

Policy on Industries

We will continue to promote Hong Kong's existing industries and also explore new advantages and develop new strengths. As the Chief Executive has stated clearly in his Manifesto, we would draw up an overall industry policy with a view to creating jobs and improving people's livelihood. As announced by the Chief Executive, an Economic Development Commission (EDC) would be established to provide visionary direction and advice to the Government on the overall strategy and policy to broaden Hong Kong's economic base and to enhance Hong Kong's economic growth and development, and in particular, to explore and identify growth sectors or clusters of sectors which present opportunities for Hong Kong's further economic growth, and recommend possible policy and other support for these industries. The EDC will be led by the Chief Executive. The preparatory work for the establishment of the EDC has commenced and it is envisaged that the EDC would be set up shortly.

Quarry Bay Park Phase II (Stages 2 & 3) Project

18. **MR CHRISTOPHER CHUNG** (in Chinese): *President, the Quarry Bay Park Phase II (Stages 2 & 3) Project is an outstanding leisure facility project of the former Urban Council. The works commencement date of this project has been postponed repeatedly for many years due to various reasons and, to date, it has remained uncertain. On the other hand, the site of this project is now temporarily allocated to the Hong Kong Police Force (HKPF), the Food and Environmental Hygiene Department (FEHD) and the Water Supplies Department*

(WSD). In a paper submitted to this Council in April this year, the authorities have pointed out that these departments are planning the permanent relocation of their facilities to other sites, and the Leisure and Cultural Services Department (LCSD)'s planning work for the park will tie in with the relocation schedule. In this connection, will the Government inform this Council:

- (a) of the expected commencement and completion dates for the works when the aforesaid project was first planned by the former Urban Council; the reasons why the works have not yet commenced to date;*
- (b) when and why the Government temporarily allocated the project site to the three aforesaid government departments; whether it has reviewed if the land allocation arrangements made at that time was necessary and urgently needed; of the respective numbers of times for which these departments were permitted to continue using the site;*
- (c) given that the HKPF and the FEHD have already planned to permanently relocate their facilities to Chai Wan, but the WSD has not yet had a concrete relocation plan, of the progress of the relocation plans of these departments, the expected completion time for their relocation, and whether they have encountered any difficulties in their arrangements for facilities relocation and removal; if they have, of the details;*
- (d) of the current estimated works cost for the aforesaid project; whether it has assessed how much the works cost has risen since the project was first planned; when the authorities expect that they will seek funding approval from the Finance Committee of this Council in respect of the project;*
- (e) whether it has assessed if the facilities of the aforesaid project not being able to complete as soon as possible will lead to a problem of insufficient leisure facilities in Hong Kong Island East; and*
- (f) given that, at present, the site temporarily allocated to the aforesaid departments has cut into two parts the park facilities completed in Phase I and Phase II (Stage 1) of the Quarry Bay Park Project,*

making it necessary for users to make a detour in order to go from one part of the park to the other, and causing inconvenience to users, whether the authorities will take measures to solve this problem; if they will, of the details; if not, the reasons for that?

SECRETARY FOR HOME AFFAIRS (in Chinese): President,

(a) The site of the Quarry Bay Park Phase II (Stages 2 & 3) Project was temporarily allocated to the HKPF, the FEHD and the WSD during the time of the former Urban Council. The construction timetable for the project is subject to the availability of the site for development. The LCSD consulted the Eastern District Council on the scope of development and the progress of the project in early 2007 and February 2009 respectively. The project is not ready for implementation as the site is not yet available for development. The LCSD will continue to monitor the relocation schedules for the facilities of the departments concerned with a view to facilitating the implementation of the Quarry Bay Park project.

(b) Details of the site occupation by departments concerned are as follows:

- *The HKPF*

In 1995, the Lands Department (LandsD) temporarily allocated the site to the HKPF as the only police vehicle pound and examination centre on Hong Kong Island in order to meet the HKPF's operational needs. The Lands have since extended the allocation five times.

- *The FEHD*

The FEHD Temporary Vehicle Depot in Quarry Bay has been operating since 1996. Vehicles in the depot mainly provide transport to support environmental hygiene services provided by the Eastern District Environmental Hygiene Office in the

North Point, Quarry Bay, Shau Kei Wan and Chai Wan areas. Since 1996, the Lands have twice extended the temporary government land allocation for the depot.

- *The WSD*

In October 1999, the LandsD allocated the site in Quarry Bay to the WSD as a temporary works area, and has since extended the allocation four times. The area is used as a WSD contractor's maintenance yard to accommodate operational vehicles, equipment, pipes and construction materials to handle emergency maintenance and repairs on Hong Kong Island, especially in Eastern District.

The sites in question are allocated to the HKPF, the FEHD and the WSD for temporary use only. The LandsD will arrange with the departments concerned to vacate the sites to facilitate the extension of Quarry Bay Park Phase II.

(c) *The HKPF and the FEHD*

The HKPF, together with the FEHD, the Electrical and Mechanical Services Department and the Government Laboratory, plan to construct a complex in Chai Wan to re-provide the HKPF vehicle pound and examination centre as well as the FEHD vehicle depot. Relevant departments have started preparatory work on the project.

The WSD

A replacement site in Chai Wan was temporarily allocated to the WSD in October 2009. A WSD contractor has relocated some of the operational vehicles, equipments, pipes and construction materials to this site. However, as the area of the replacement site is only half of the area of Quarry Bay site, the WSD still needs to use the Quarry Bay site to support emergency repair services on Hong Kong Island, especially in Eastern District. The WSD will look for other replacement sites with a view to vacating the Quarry Bay site.

- (d) In May 1997, the former Urban Council endorsed the project scope and list of facilities for the project. The tender price index (TPI) for building works at that time as prepared by the Architectural Services Department was 953. Since the design has not been completed, the project cost is not yet available. The latest TPI for building works, as at the end of the second Quarter of 2012 is 1 438.
- (e) According to the Hong Kong Planning Standards and Guidelines (HKPSG), two hectares of public open space should be provided for every 10 000 people. Eastern District has about 122 hectares of public open space (excluding the Quarry Bay Park (Phase II) site) for a current population of about 590 000 and a planned population of about 610 000, which meets the HKPSG standard.
- (f) Phase I and Stage 1 of Phase II of the Quarry Bay Park are separated by the Eastern Island Corridor, a geographical constraint that will remain even after the completion of Quarry Bay Park Phase II (Stages 2 & 3). People will be able to reach Phase II from Phase I of the Park by walking for 10 to 15 minutes via the walkway at Hoi Wan Street.

Landfill at Tseung Kwan O

19. **MR JAMES TIEN** (in Chinese): *President, quite a number of Tseung Kwan O residents have relayed to me that the South East New Territories (SENT) Landfill, which is situated in Tseung Kwan O, has all along caused environmental hygiene problems such as odour, noise and dust, and so on, to the district. However, during her visit to the SENT Landfill at the end of October this year, the Under Secretary for the Environment indicated that it was necessary to extend all the three landfills in Hong Kong because a large amount of waste was generated daily in Hong Kong, and the plan to build the Integrated Waste Management Facilities, which used advanced incineration as the core technology, had been affected by a judicial review case and could not commence. In this connection, will the Government inform this Council:*

- (a) *given that this Council resolved to repeal the Country Parks (Designation) (Consolidation) (Amendment) Order 2010 on*

13 October 2010, thus blocking the Government's extension plan of incorporating a site within the Clear Water Bay Country Park into the SENT Landfill, why the Government still plans to extend the landfills at present and does not consider handling waste with other methods; whether the Government will consider afresh other alternatives; if it will, of the details;

- (b) of the respective monthly average numbers of trips made by refuse collection vehicles and dump trucks through Wan Po Road and the Tseung Kwan O Tunnel since 2009;*
- (c) of the number of complaints relating to the SENT Landfill (including the odour emitted from the landfill as well as the problems of odour, leachate and traffic safety, and so on, caused by the refuse collection vehicles and dump trucks travelling to and from the landfill) received by the authorities each month since 2009, together with a tabulated breakdown by the type of complaint;*
- (d) whether it has reviewed if the various existing measures to mitigate or solve the odour problem caused by the SENT Landfill to the nearby areas are effective; if it has, of the details; if not, the reasons for that;*
- (e) of the details and timetable of the SENT Landfill extension plan;*
- (f) whether, according to the latest assessment of the authorities, the problems of odour, noise, dust and leachate from refuse collection vehicles, and so on, caused by the SENT Landfill to the nearby areas will deteriorate after the extension of the landfill; if so, of the details; and*
- (g) of the new plans or measures for continued and effective amelioration of the environmental hygiene problems caused by landfills?*

SECRETARY FOR THE ENVIRONMENT (in Chinese): President, our reply to Mr TIEN's question is as follows:

- (a) Facing the imminent waste management problem, we will adopt a policy focusing on waste reduction at source, as well as deepening and expediting the implementation of various waste reduction measures. Currently, the recovery rate of municipal solid waste in Hong Kong has reached 48%, striving to reach the target of 55% in 2015. However, no place in the world can achieve "zero-waste" by waste reduction alone. We cannot evade the need for waste treatment facilities which requires our immediate attention in the face of the imminent exhaustion of the landfills. In order to ensure that Hong Kong can maintain environmental hygiene and handle waste properly, currently we still need to extend the landfills and construct other modern waste treatment facilities.

Since early 2004 the Environmental Protection Department (EPD) has conducted inception and feasibility study for the SENT Landfill Extension scheme and started the public consultation with all stakeholders. After prolonged discussion, the Government understood the views of the residents of Tseung Kwan O town on the SENT Landfill Extension. Therefore, it decided to amend the proposal in January 2011, by scaling down the extension scheme from the original 20.6 hectares to 13 hectares. Only land in Tseung Kwan O Area 137 will be included and the proposed SENT Landfill Extension would only receive construction waste which does not have an odour problem. On one hand the revised proposal has positively addressed the resolution made by the Legislative Council on 13 October 2010 to repeal the Country Parks (Designation) (Consolidation) (Amendment) Order 2010 laid before the Legislative Council for perusal on 9 June 2010 and on the other hand, it has addressed the residents' concerns over the odour issue of the landfill.

- (b) Tseung Kwan O Tunnel and Wan Po Road meet the road layout standards of the Transport Department (TD) and are suitable passages for vehicles registered under the Road Traffic Ordinance.

The TD does not have any detailed record of the vehicles by categories which pass Tseung Kwan O Tunnel and Wan Po Road. The data below are for reference:

- From January to September 2012, about 252 000 trips by heavy vehicles (including double deck buses and goods vehicles above 5.5 tonnes) were made via Tseung Kwan O Tunnel every month. This represented roughly 11% of the total vehicle trips via that tunnel. The detailed statistics are available at the website below:
<http://www.td.gov.hk/filemanager/en/content_4539/table32d.pdf.>
- According to a survey on traffic flow at Wan Po Road near LOHAS Park by the TD in July 2012, 690 trips by buses and 740 trips by heavy goods vehicles were made passing that section of Wan Po Road during the peak hours in the morning and in the evening. This represented roughly 27% of the total vehicle trips via that road section.

(c) Below are the statistics on complaints against the odour from the SENT Landfill (as at 30 November 2012) received by the EPD:

	2009	2010	2011	2012
January	4	0	5	30
February	2	9	14	15
March	4	32	12	25
April	9	14	23	95
May	27	22	74	215
June	170	91	194	283
July	130	108	299	506
August	137	256	320	466
September	42	121	81	166
October	9	29	20	57
November	12	32	73	74
December	2	39	5	
Annual Total	548	753	1 120	1 932

Below are the statistics on complaints against fly-tipping by refuse collection vehicles or dump trucks passing Wan Po Road (as at 10 December 2012) received by the EPD:

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	1	0	1	0
February	0	0	0	2
March	1	0	0	1
April	0	0	0	0
May	0	2	0	0
June	1	1	0	0
July	1	0	1	0
August	0	1	0	0
September	0	1	0	1
October	0	0	1	0
November	0	0	0	1
December	0	1	1	1
Annual Total	4	6	4	6

Below are the statistics on complaints against odour from refuse collection vehicles or dump trucks passing Wan Po Road (as at 10 December 2012) received by the EPD:

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	0	0	0	0
February	0	0	0	0
March	0	0	0	0
April	0	0	0	0
May	0	1	0	0
June	0	0	0	0
July	0	0	0	0
August	0	2	0	0
September	0	0	0	0
October	0	0	0	0
November	0	0	0	0
December	0	0	0	0
Annual Total	0	3	0	0

Below are the statistics on complaints against wastewater from refuse collection vehicles or dump trucks passing Wan Po Road (as at 10 December 2012) received by the EPD:

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	0	0	0	0
February	0	0	0	0
March	0	0	0	0
April	0	0	0	0
May	0	0	0	0
June	0	0	0	0
July	0	0	0	0
August	0	0	1	0
September	0	0	1	0
October	0	0	0	0
November	0	0	0	0
December	0	0	0	0
Annual Total	0	0	2	0

Below are the statistics on complaints against dust from refuse collection vehicles or dump trucks passing Wan Po Road (as at 10 December 2012) received by the EPD:

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	0	0	0	0
February	0	0	0	0
March	0	0	0	0
April	1	1	0	0
May	0	0	0	0
June	0	0	0	1
July	0	0	0	0
August	1	0	0	0
September	0	1	0	0
October	0	0	0	0
November	0	0	0	0
December	0	1	0	0
Annual Total	2	3	0	1

Below are the statistics on complaints against noise from refuse collection vehicles or dump trucks passing Wan Po Road (as at 10 December 2012) received by the EPD:

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	0	0	0	0
February	0	0	0	0
March	0	0	0	0
April	0	0	0	0
May	0	0	1	0
June	0	0	0	0
July	0	0	0	0
August	1	0	0	0
September	0	0	0	0
October	0	0	0	0
November	0	0	0	0
December	0	0	0	0
Annual Total	1	0	1	0

Below are the statistics on complaints against the traffic safety of refuse collection vehicles or dump trucks passing Wan Po Road (as at 10 December 2012) received by the EPD:

	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012</i>
January	0	0	0	0
February	0	0	0	0
March	0	0	1	0
April	0	0	0	0
May	0	0	0	0
June	0	0	0	0
July	0	0	0	1
August	0	0	0	0
September	0	0	0	0
October	0	0	0	0
November	0	0	0	0
December	0	0	0	0
Annual Total	0	0	1	1

- (d) The EPD appointed an independent consultant to carry out an independent audit of the potential odour impact of the operation of the SENT Landfill in 2006. According to the audit report, the operation of the Landfill met the contract requirements and was in line with the best international practices in landfill management. Nonetheless, the independent consultant recommended improvement measures in the audit report, such as setting up additional deodorisers for priority treatment of odour from vehicles using access road/weighbridges, and putting a mobile cover on the special waste trench. These measures could further enhance the odour management of the SENT Landfill, and have been implemented.

Apart from the recommendations in the audit report, the EPD has also implemented a series of odour control measures to minimize any potential odour during the operation of the Landfill. These measures include reducing the size of the tipping areas; at the end of the daily waste reception process, covering the tipping areas with a layer of soil followed by Posi-Shell Cover material (a cement-based cover material); covering the non-active tipping areas with impermeable composite liners or Posi-Shell Cover material; installing additional landfill gas extraction wells, pipes and landfill gas flaring units for the collection and treatment of landfill gas, setting up deodorisers, and so on.

On the monitoring of odour, the EPD site staff patrols the landfill daily. The Independent Consultant also carries out regular daily odour inspections on weekdays and weekly joint inspections with the Landfill operator to the waste tipping areas, general site area, perimeter access road, weighbridge area and entrance/exit of the Landfill. We have also commissioned The Hong Kong Polytechnic University since July 2010 to conduct independent odour inspections. The results of the patrols showed that the Landfill operation had no impact on the surrounding areas. The EPD has further commissioned an independent consultant in mid-2012 to conduct an independent audit of the SENT Landfill operation after the above odour management measures were implemented to further assess its operation and the performance of odour control measures. The audit is expected to be completed in early 2013.

- (e) The SENT Landfill Extension scheme involves the development and management (including design, construction, operation, restoration and aftercare) of the lot in Tseung Kwan O Area 137 to the south of the existing SENT Landfill. We plan to consult the Legislative Council Panel on Environmental Affairs on the proposed project in 2013 before seeking funding from the Finance Committee of the Legislative Council.
- (f) An environmental impact assessment of the SENT Landfill Extension scheme was made under the Environmental Impact Assessment Ordinance (EIA Ordinance). The relevant report was approved in May 2008, and an environmental permit has been obtained. The environmental impact assessment report concluded that, with the implementation of the recommended mitigation measures, the potential impacts on air quality (including odour and dust), ecology, noise, water quality, waste management, landfill gas hazard as well as landscape and visual aspects would meet the relevant requirements under the EIA Ordinance and its technical memorandum. Subsequently in January 2011, the Government decided to amend the SENT Landfill Extension scheme. This included the excision of five hectares of land within the country park from original proposed landfill use and the reception of only construction waste which does not have odour problem. This follows that refuse collection vehicles carrying municipal solid waste which now make about 480 trips daily to the SENT Landfill would not be travelling to and from the Landfill Extension, thereby further alleviating the potential environmental impacts of the Extension scheme.
- (g) We will continue implementing various odour management measures mentioned in our reply in part (d) above at the SENT Landfill, and review their effectiveness if and when necessary.

Regarding the SENT Landfill Extension, we will implement the mitigation measures set out in the environmental permit, with a view to reducing the impact of the Extension on the surrounding areas to the absolute minimum.

Regulation of Energy Drinks

20. **MR ALAN LEONG** (in Chinese): *President, in recent years, there has been an increasing number of types of energy drinks on sale in the market, and as there is no legislation regulating the sale of energy drinks at present, members of the public can buy such drinks at any time in any place. Some students have relayed to me that they generally consume huge quantities of energy drinks during examinations for energy enhancing effect, and this trend has aroused concerns. According to the information from the Centre for Food Safety (CFS), there have been cases of cardiac dysrhythmia, seizures, kidney failure, and fatalities, as reported in foreign countries from time to time, which were suspected to be caused by the consumption of energy drinks, and quite a number of cases of adverse body reaction were associated with improper ways of consuming energy drinks (for example, taking energy drinks with alcoholic drinks or in excess of the recommended quantities). In this connection, will the Government inform this Council whether:*

- (a) *it had conducted studies in the past five years on regulating the composition and sale of energy drinks; if it had, of the details; if not, the reasons for that;*
- (b) *it had considered introducing legislation to regulate the composition and sale of energy drinks in the past five years and conducting public consultation in this regard; if it had, of the details; if not, the reasons for that;*
- (c) *it has compiled statistics on the sales turnover of energy drinks in each of the past five years and their market share in the beverage market; if it has, set out the statistics in table form; if not, whether it will consider compiling the relevant statistics;*
- (d) *it has considered providing the public with health guidelines on the consumption of energy drinks, for example, the maximum daily intake of caffeine for children under 12 years of age, pregnant women, people suffering from heart disease and hypertension; and*
- (e) *it will step up publicity in the media on the possible impact of energy drinks on the health of the public; if it will, of the details; if not, the reasons for that?*

SECRETARY FOR FOOD AND HEALTH (in Chinese): President, it is often claimed that energy drinks are able to achieve an energy enhancing effect by stimulating the nervous system. They are generally non-alcoholic beverages but may contain ingredients such as caffeine, taurine, glucuronolactone and B vitamins, and so on.

Taurine is a kind of amino acid found in natural food and can be produced by human bodies. Consuming food containing taurine is generally safe. However, a study on animals indicated that a very high intake of taurine might affect the behaviour of animals (for example, increased activity).

Glucuronolactone is a carbohydrate which can also be produced by human bodies. Consuming food containing glucuronolactone is generally safe. According to the research data currently available, no evidence shows that glucuronolactone can cause adverse health effects.

The caffeine content in a can of energy drink is about the same as that of a cup of coffee. Except for caffeine which may cause adverse effects such as nervousness or anxiety in children or people who are sensitive to caffeine, no evidence shows that any other ingredients in energy drinks can cause serious health effects.

My reply to the question is as follows:

- (a) Although the Government has not conducted any study on the sale of energy drinks in recent years, it has gathered some information on their composition. In November 2002, the Food and Environmental Hygiene Department (FEHD) carried out a study in collaboration with the Consumer Council to find out the caffeine content in prepackaged non-alcoholic beverages (including energy drinks) available in the Hong Kong market. The findings showed that among the five major categories of drinks covered in the study, coffee had the highest median caffeine content (475 mg/L), followed by energy drinks (180 mg/L). An overseas country recommends that for adults, the maximum daily intake of caffeine should be 400 mg. However, given the relatively small package size of energy drinks (50 ml to 500 ml), normal consumption should not result in excessive intake of caffeine.

Besides, the CFS of the FEHD takes food samples (including energy drinks) at import, wholesale and retail levels for microbiological, chemical and radiological testing under the Food Surveillance Programme to ensure that all food for sale in Hong Kong is fit for human consumption and complies with the legal requirements. The CFS adopts a risk-based approach in determining the types of food samples to be collected, the frequency and number of samples for testing, and the types of laboratory analyses to be conducted. The sampling programme is under regular review, taking into account factors such as past food surveillance results, local and overseas food incidents as well as relevant risk analyses. The CFS tests about 65 000 food samples every year. Since 2010, it has taken 24 samples of energy drinks for various kinds of testing, the results of which were all satisfactory. Following the media report in October this year that a teenage girl in the United States died last year after consuming nearly 1.5 litres of an energy drink, the CFS immediately took samples of energy drink products of the same brand on sale in the local market for testing, and found that their caffeine contents were comparable to those of coffee beverages.

Up till now, the United States Food and Drug Administration (FDA) has not yet reached a conclusion in respect of the case. No official announcement has been made to confirm that there is a causal relationship between the energy drink concerned and the death. Nevertheless, we will closely monitor and follow up on the development of the case, and liaise with the FDA accordingly.

- (b) On the international front, there are currently no standards set by the Codex Alimentarius Commission for energy drinks. In Hong Kong, section 54 of the Public Health and Municipal Services Ordinance (Cap. 132) stipulates that all food for sale (including energy drinks) must be fit for human consumption. The Food and Drugs (Composition and Labelling) Regulations (Cap. 132W) also stipulates that prepackaged food (including energy drinks) shall be marked or labelled with a list of ingredients⁽¹⁾. The ingredients

(1) According to the Food and Drugs (Composition and Labelling) Regulations (Cap. 132W), "ingredient" means any substance, including any additive and any constituent of a compound ingredient, which is used in the manufacture or preparation of a food and which is still present in the finished product, even if in altered form.

shall be listed in descending order of weight or volume determined as at the time of their use when the food was packaged. Consumers can find out the composition of a prepackaged food (such as whether caffeine is added) from the list of ingredients on the food label and make an informed choice. As these requirements have already provided consumers of energy drinks with a certain degree of protection, the Government has not considered introducing additional legislation to regulate the composition and sale of energy drinks in the past five years.

- (c) The Government has not compiled any statistics on the sales turnover of energy drinks and their market share in the beverage market in the past five years.
- (d) At present, international food safety authorities, such as the Joint Food and Agriculture Organization of the United Nations/World Health Organization Expert Committee on Food Additives, have not set any safety reference value, such as recommended acceptable daily intake, for caffeine. Different countries/regions may give different recommendations on caffeine intake for different groups of people. For example, it is recommended that the daily intake of caffeine for pregnant or lactating women should not exceed 200 to 300 mg whereas the daily intake for children below 12 should not exceed 2.5 to 3.0 mg/kg body weight, and so on.

According to the European Union Scientific Committee on Food, the adverse health effects caused by energy drinks may be due to the interactions between constituents in energy drinks, alcohol and exercise. These interactions may affect the central nervous system (for example, reducing the consumer's awareness of alcohol intoxication), the kidney (for example, increasing water and sodium loss from the body in the short term) and the cardiovascular system (for example, altering the heart rate and blood pressure in the short term). These effects may pose health risks to consumers. In recent years, there have been cases of cardiac dysrhythmia, seizures, kidney failure and fatalities with a possible link to the consumption of energy drinks reported in different countries. These incidents may involve the over-consumption of energy drinks or consumption of energy drinks in conjunction with alcoholic beverages, and so on.

As such, consumers are advised to follow a balanced diet and refrain from drinking excessive amounts of caffeine drinks, including energy drinks. When consuming energy drinks, they should note the manufacturer's suggestion on intake level on the label to avoid over-consumption. Energy drinks should not be consumed along with other substances that affect the functioning of the central nervous system (such as alcohol or medication with an effect on the central nervous system). Pregnant and lactating women, children and individuals sensitive to caffeine should also refrain from consuming energy drinks.

- (e) The CFS disseminates food safety messages through its website, publications and Announcements of Public Interest on television and radio regularly. The CFS provided information on energy drinks in its "Risk in Brief" on its website in October this year and covered the same topic in its monthly publication "Food Safety Focus" in November, with a view to enabling the public and the trade to have a better understanding of energy drinks.

MOTIONS

PRESIDENT (in Cantonese): Motion. Proposed resolution under the Hong Kong Export Credit Insurance Corporation Ordinance.

I now call upon the Secretary for Commerce and Economic Development to speak and move the motion.

PROPOSED RESOLUTION UNDER THE HONG KONG EXPORT CREDIT INSURANCE CORPORATION ORDINANCE

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I move that the motion, as set out under my name on the Agenda, be passed.

The Hong Kong Export Credit Insurance Corporation (ECIC) was established in 1966 under the Hong Kong Export Credit Insurance Corporation

Ordinance (the Ordinance). It aims to support export trade through the provision of export credit insurance cover for Hong Kong exporters against non-payment risks arising from commercial and political events.

Section 18 of the Ordinance provides that the Government shall guarantee the payment of all moneys due by the ECIC. Section 23 stipulates that the contingent liability of the ECIC under contracts of insurance shall not at any time exceed a specified amount determined by the Legislative Council by resolution. Currently, the level of the ECIC's maximum contingent liability is \$30 billion.

As at 30 November 2012, the contingent liability of the ECIC amounted to \$29 billion, or 96.8% of the maximum liability permitted. The ECIC forecasts that it will reach its existing cap on contingent liability by end March 2013.

With the continuing uncertain global economic environment and taking into account the business growth of the ECIC in the coming few years, we consider that the ECIC should have sufficient underwriting capacity to continue to provide export credit insurance for Hong Kong exporters, especially small and medium enterprises. We propose to raise the ECIC's contingent liability from \$30 billion to \$40 billion. According to the ECIC, the new cap should be sufficient to meet its business growth in the next four years.

I would like to emphasize that the contingent liability only refers to the maximum amount for which the ECIC could be contractually liable to indemnify policyholders in respect of its insurance policies. The actual claims figures in the past were far below the maximum contingent liability. In view of the ECIC's prudent approach to business and its healthy financial condition, we do not expect that there will be a need for the Government to provide financial assistance to the ECIC to meet its liabilities in at least the short to medium term. The ECIC will continue to conduct its business within the bounds of prudent risk management.

President, I beg to move.

The Secretary for Commerce and Economic Development moved the following motion:

"RESOLVED that the contingent liability of the Hong Kong Export Credit Insurance Corporation under contracts of insurance must not at any time exceed the sum of 40,000 million dollars."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Commerce and Economic Development 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 of the Members present. I declare the motion passed.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. There are a total of four Members' motions for this meeting.

First Member's motion: Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Competition Ordinance (Commencement) Notice 2012, which was laid on the table of this Council on 28 November 2012.

I now call upon Mr Andrew LEUNG to speak and move the motion.

PROPOSED RESOLUTION UNDER SECTION 34(4) OF THE INTERPRETATION AND GENERAL CLAUSES ORDINANCE

MR ANDREW LEUNG (in Cantonese): President, I move the motion as set out on the Agenda.

At the meeting of the House Committee on 30 November 2012, Members decided to set up a subcommittee to study the Competition Ordinance (Commencement) Notice 2012.

In order to give the Subcommittee ample time to report its deliberations to the House Committee and allow Members to give notice for amending the commencement notice, on behalf of the Subcommittee, I move that the period for scrutinizing the said subsidiary legislation be extended to 16 January 2013.

I urge Members to support the motion.

Mr Andrew LEUNG moved the following motion:

"RESOLVED that in relation to the Competition Ordinance (Commencement) Notice 2012, published in the Gazette as Legal Notice No. 177 of 2012, and laid on the table of the Legislative Council on 28 November 2012, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 16 January 2013."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Andrew LEUNG 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.

PRESIDENT (in Cantonese): Second Member's 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, a quorum is lacking. Only seven Members are in attendance.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Will Members please return to their seats. Mr LEE Cheuk-yan, please.

MR LEE CHEUK-YAN (in Cantonese): President, I move that the motion, as set out on the Agenda, be passed.

It is written very clearly in my motion and, that is, to urge that this Council should invoke the Legislative Council (Powers and Privileges) Ordinance and inquire into the incident concerning the unauthorized building works (UBWs) of the house owned by LEUNG Chun-ying on the Peak and related issues. Of course, the related issues refer to the problem with his integrity. LAM Tai-fai the Buddhist priest has said that there is a karma relationship of cause and effect to everything. This can be seen today and it will go on. There will be more of this kind of consequences coming, that is, the impeachment motion. What is the cause of these issues related to LEUNG Chun-ying? It is when he said loudly to Henry TANG, to this effect, "Your problem now is not about UBWs, but integrity." Now we are saying the same thing to LEUNG Chun-ying, "Your problem is not about UBWs, but integrity." This is what I mean by the karma relationship.

(THE PRESIDENT'S DEPUTY, MR ANDREW LEUNG, took the Chair)

LEUNG Chun-ying — that is, "689" — will go to Beijing to see his boss tomorrow. It is polite enough to call him "689". Actually, he is only "1". What does it mean? The Central Authorities. He is preordained by the Central Authorities. Tomorrow, he will go to Beijing to report on his work and meet those people from the Central Authorities. We hope that he is not going to Beijing on any official business but he is to face the music. Tomorrow, he will face the music. Why has he come to this? It is meant to find out whether or not he has cheated his way to become the Chief Executive. He has not only cheated those members of the Election Committee and the Central Authorities, but also the people of Hong Kong and the whole world. He has cheated the Central Authorities and so he has to face the music before them. I do not know what the position of the Central Authorities is in this case. Will the Central

Authorities continue to condone him and come out and say with a grin that they will support the Chief Executive in governing Hong Kong according to law. And they will make some hollow remarks. Or will they say "You will have mercy when you confess but you will be treated harshly if you resist."?

We are very disappointed because LEUNG Chun-ying has never confessed to the people of Hong Kong. Now we have to see whether the Central Authorities will do something to require him to confess. We hope that as LEUNG Chun-ying faces the music, he will not be so timid as to admit everything and keep on making apologies. Then, on his return, he will go on cheating the people of Hong Kong. We hope that no matter what he says to the Central Authorities, he can tell the people of Hong Kong all about it. We want to see whether or not he will go on cheating even the Central Authorities. It is obvious that he has cheated Members of this Council, and now we want to see whether or not he will go on cheating. We will wait and see what the result is after his duty visit to Beijing and facing the music. We hope that the final outcome is not that his wrongs are condoned.

Last week, we had a debate on the vote of no confidence motion. Today we are debating on invoking the Legislative Council (Powers and Privileges) Ordinance to conduct an inquiry. I urge Members to note this. My motion is only about conducting an inquiry. If the pro-establishment camp votes down this motion on conducting an inquiry, then these Members will owe the people of Hong Kong an explanation. Why do they not accept even a proposal on conducting an inquiry? As we are all keenly aware, LEUNG Chun-ying always mentions "open and transparent", but he is utterly a professional liar, a habitual liar. If we do not even conduct an inquiry into a person like this, we are actually perpetuating his efforts in lying, covering up and cheating the people of Hong Kong in his own habitual formula. What is his habitual formula? It is to cover up, cheat, shirk his responsibility and admit being careless. He started off by trying to cover up everything, and when that failed, he started to cheat. And when the cheating failed, he began to shirk his responsibility. And when that failed again, he had to admit that he had been careless. This is formula he uses to deal with everything.

Given the developments so far and in retrospect, why is an inquiry necessary? Last week, Mr James TIEN said that there was a problem with the

UBWs and also a problem with his integrity and he had cheated his way to the Chief Executive office. He was therefore guilty. Mr James TIEN was right when he said that LEUNG was guilty. There is a problem with everything. The question is: To what extent have the problems become and serious are they? What is the truth behind all this? The motion today is proposed in the hope of probing for the truth for the people of Hong Kong. We want him to come to this Council to answer our questions and we want to see him really being open and transparent about the problem with his integrity. This is the aim of this motion and we want him to answer questions from Members. If the motion today is not passed, I do not think he will come to this Council again if we want him to attend a Question and Answer Session here. He will not answer questions anymore. All he wants is to bury this incident, just like sealing off his basement. He wants to sweep the whole thing under the carpet. Is this what we would allow him to do?

In sum, there are still many question marks over the whole incident. I would like to list these points and Members should consider whether or not they warrant an investigation.

First, in 1999 when LEUNG Chun-ying bought his property on the Peak, he should be aware that there were UBWs there. But he just shifted the blame onto his friend from the construction and surveying sectors, saying that this friend of his had made an inspection and formed the view that there were no UBWs there. But who is this friend of his? We do not know. Is there really such a person? We do not know. If there is really such a person, why did he not notice that there were UBWs there?

Second, in May 2011, he invited the media to his house for an inspection and made it a point to tell the media that he did not have any UBWs in his house. Was LEUNG Chun-ying apparently lying? Because there is no reason why he did not know that he had a basement which was an illegal structure.

Third, the former Chief Executive, that is, the covetous Donald TSANG had called upon all the top officials to check their properties to see if there were any UBWs. Why did LEUNG Chun-ying do nothing at that time? He has never explained this.

Fourth, in November 2011, he sealed off his basement secretly. Why did he not inform the Buildings Department (BD) at that time and instead did something which was unlawful? Was the motive simply to destroy all the evidence?

Fifth, after the case of "Chamber of Secrets" was exposed, LEUNG Chun-ying said that he did not have any relevant experience in handling such matters and that was the first time he had ever handled a case of UBWs. But later some people pointed out that back in 2000, he had had the experience of handling UBWs in his residence in Stanley. This shows that he has again lied.

Sixth, on 16 July LEUNG Chun-ying said in a Question and Answer Session in this Council that he had not covered anything up regarding UBWs. Members should recall that it was 16 July and he had already sealed off his basement secretly. It is obvious enough that he was cheating the Council.

Seventh, about that basement, there are four letters from the BD asking him to provide information, but LEUNG Chun-ying gave the pretext that legal proceedings were ongoing and refused to give any reply to the BD. Did he know that if he gave a reply to the BD, the affair would come to light and he would lose the lawsuit? Why did he have to cover things up? Is it really because he wants to cheat his way to the office of the Chief Executive? This is because if he does not cover things up, he may lose the lawsuit. Is that true?

Eighth, during the election campaign, LEUNG Chun-ying attacked Henry TANG on the issue of UBWs and that was aimed at undermining his opponent's popularity and to make way for his winning the election. It is really terrible when we think of this. Did he cover up his own UBWs and attack his opponent? This is something we should probe into.

Ninth, on 19 June, he knew that *Ming Pao Daily* would publish a report on his UBWs and he knew well that it was as late as 11 o'clock at night, he still made a call at such unsocial hours to the editor-in-chief of *Ming Pao Daily*, LAU Chun-to. But he did not admit having called Mr LAU. He said that he was giving a reply to a question asked by the media. But LAU Chun-to has filed a petition to the Court and a clear statement is available. The statement says that it was LEUNG Chun-ying who called first and it was because the call had been

missed that Mr LAU called back. It is certain that LEUNG Chun-ying was the party who called first.

Tenth, after the newspapers had reported this affair, on 26 June, he issued a statement through the Office of the Chief Executive-Elect and denied that he carried out the unauthorized erection of a glass canopy after he had moved in. He was again cheating. Then reporters used satellite photos to show that the glass canopy was built after he had moved in. So the cat was let out of the bag. His formula is to cover up and cheat. After the exposure, he knew that he could not gloss things over, that he had told a lie, so he had to say that his memory had failed him and put the blame on his faulty memory.

Eleventh, on 10 December, when giving a reply to a question asked by a Member, he said, "I have never said that I did not have any UBWs." This is a remark which I think Members can remember very well. Is he trying to mislead the people again? This is really too obvious. The people were shocked because he could tell a lie like this.

Twelfth, the statement issued by LEUNG Chun-ying said that with respect to repeated requests from the BD to inspect his house, he has never refused or made any delay. This is what he said in the statement. But it is obvious that he has not heeded the four letters from the BD. Is this not making delays and refusals? Is he actually misleading the people of Hong Kong?

All of these are the 12 major points that arouse suspicions. I have not yet talked about his house in Stanley. When we probe into the problems about his house in Stanley, we should also probe into the Secretary for Development because we have to find out if the Secretary for Development has been shielding LEUNG Chun-ying in the whole affair. I remember clearly that during a meeting of this Council, the Secretary for Development said in a reply to an oral question that he had not contacted any related persons. When the Secretary was talking about related persons, he meant the professionals. This is related to the four letters. I think I have to explain the background to this. First there is the basement, then the four letters. Then someone asked the Secretary for Development and the BD whether or not they had been condoning this and the Secretary said that he had not contacted any related persons. But the Secretary fell short of saying whether or not he had exerted any pressure on the BD and

whether or not he had contacted officials in the BD responsible for this case. About these four letters from the BD, the Chief Executive has not made any reply. Have the officials concerned reported this to the Secretary or the former Secretary, Mrs Carrie LAM? Then what did the authorities do afterwards? We have no idea of all these things. So has there been any attempt to shield and connive at LEUNG Chun-ying's wrongs? There is another example of this alleged connivance by the BD. Before the Question and Answer Session, it was obvious that some media people had asked about the house in Stanley. Why did the BD not issue any statement before the Session, instead of doing so only after the Session? Did the Secretary for Development issue any instruction to condone this affair? So the Secretary for Development can never hope to get away with this.

Last week, some Honourable colleague said that we should look forward and give him another chance. And it was said that we should care about the problem of prestige in governance. Yet, come to think about this. Why do we want him to step down now? Because he is bankrupt in terms of integrity. There is no trace of any prestige and moral fibre in this man. He fails to gain the trust of the people. After the Question and Answer Session, things became even worse. We are convinced that that he is a big liar. In such circumstances, how can we talk about prestige in governance? We had better suffer a short while than to suffer forever. We should let him step down so that we can brace up and take on a new path. Now Hong Kong is dying with this man. Both his morals and prestige are gone. No one will trust him anymore. How can this Government ever hope to effect administration? It is only when we can return to square one and give the people of Hong Kong a government with integrity that Hong Kong can take on a path of recovery. We always say that if he steps down and Carrie LAM can act as the custodian Chief Executive in the run-up to election of the Chief Executive by universal suffrage, then that will all be fine. We have to give the people of Hong Kong a government that has really got integrity and we do not want this big liar in the office anymore.

We do not know what will become of him after his duty visit to Beijing tomorrow. But the motion today is now in the hands of Members of this Council. If Members vote down even this motion which is about launching an inquiry into LEUNG Chun-ying, and after listening to the speech made by Dr

CHIANG Lai-wan last week, I had an impression that she was really like the chairman of LEUNG's fan club. She is a fan of LEUNG to such a blind extent. I hope Members should not be blind like her. People like to say that love is blind. But we are not talking about love here. We are talking about politics. And politics should not be blind. We should open up our eyes and look at these lies clearly. Members should support my motion on invoking the Legislative Council (Powers and Privileges) Ordinance to launch an inquiry. This will serve to give an account of the true facts to Hong Kong people and let them see integrity again. For even when the Government does not have any integrity, we in the Legislative Council do have integrity and we must probe into the affair.

Thank you, Deputy President.

Mr LEE Cheuk-yan moved the following motion:

"That this Council appoints a select committee to inquire into the unauthorized building works in House Nos. 4 and 5 of the Chief Executive of the Hong Kong Special Administrative Region Mr LEUNG Chun-ying at No. 4 Peel Rise on the Peak and 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."

DEPUTY 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 DEVELOPMENT (in Cantonese): Deputy President, Mr LEE Cheuk-yan moved the motion that this Council appoints a select committee to inquire into the unauthorized building works (UBWs) in Houses 4 and 5 of the Chief Executive at No. 4 Peel Rise on the Peak and related issues by invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance). I will speak on how the Buildings Department (BD) handled this case of UBWs.

In dealing with UBWs and enforcing the law, the BD has all along upheld professionalism and followed the principle of acting impartially in accordance with the law to address each and every case of UBWs. The Director of Buildings made a solemn statement on the 29th of last month pointing out that some recent accusations against the BD, including that BD staff shielded the owner in handling the case of Peel Rise, or that they stopped the investigation due to pressure from their seniors, were not based on the facts, hence unfair to his colleagues in the BD who had been diligently discharging their duties.

The Buildings Department Local Building Surveyors' Association and the Buildings Department Survey Officer Working Group issued a joint statement on the 30th of last month. Allow me to quote some of the main contents from the statement. The statement said, to this effect, "In their recent coverage of the UBWs identified in the Chief Executive's residence, some media made unfair remarks against the integrity, professionalism and impartiality of BD staff, causing enormous distress to our colleagues in the BD. In this regard, we wish to make a response and clarification. Our colleagues in the BD have all along adhered to the attitude of acting in accordance with the law, making professional judgments, as well as being impartial and fair in discharging their duties." The statement also said, again to this effect, "The BD's professional and technical staff are capable of making professional judgments and determined to maintain professional conduct. They will never tolerate the emergence of such circumstances as somebody being allegedly 'shielded' or 'pressurized'. We reiterate that our colleagues in the BD will adhere to the attitude of "conformity to law, professionalism and fairness" as always in discharging their duties, regardless of the identity of the target of law enforcement. They did so in the past, and so will they do in the future." (End of quote)

Deputy President, the aforesaid statement reveals the pressure recently experienced by our colleagues in the BD arising from some unfounded attacks and allegations without substantial evidence. Today, I really need to cry foul on their behalf. I wish to elaborate on the facts of this case once again to Members, and to the public through this Council, in the hope that our discussion can be based on facts and justice can be done to our colleagues in the BD.

In handling UBWs cases, the BD has been following the principle of acting in accordance with the law and being impartial to all to take appropriate actions

pursuant to the Buildings Ordinance (BO) and the prevailing enforcement policy. For all UBWs cases, the BD will take enforcement actions in an impartial manner, without making any special arrangements because of the identity of the owner. In gist, the BD will not be particularly stringent or lenient in its enforcement actions because the owner is a senior government official or celebrity. The current established procedure is as follows: Firstly, the BD will accord priority to following up and carrying out site inspection for cases reported by members of the public or by the media involving senior government officials and celebrities with the objective of clearing any public concerns as soon as possible. This procedural step was introduced last year. At that time, having regard to public concerns caused by media reports of suspected UBWs cases involving senior government officials and celebrities, the Development Bureau decided that the BD should first carry out site inspection for such cases, with the objective of clearing any public concerns as soon as possible. Secondly, after on-site inspection, the BD will be impartial to all in taking appropriate enforcement actions in accordance with the BO and the prevailing enforcement policy on UBWs. It will not be particularly fast or slow in its enforcement actions because the owner is a senior government official or celebrity.

After the media reported on 21 June that there was an unauthorized trellis in House 5 at No. 4 Peel Rise, as the case involved the then Chief Executive-elect, the BD immediately (that is, on the same day) deployed staff to visit the subject premises for inspection and made detailed records of the inspection findings pursuant to the aforesaid procedure for handling cases involving senior government officials and celebrities. The Secretary for Development also immediately (that is, in the afternoon on the same day) briefed the media on the preliminary inspection findings of the BD. In response to media reports on 22 June about a suspected unauthorized structure in the garden of House 4, the BD also deployed staff to inspect the premises again on the same day. On the basis of the findings of the inspections on both days, the BD issued an advisory letter to the owner on the same day (that is, 22 June) urging him to rectify the irregularities as soon as possible. Similarly, the Secretary for Development immediately briefed the media on the findings of the two inspections and the follow-up work of the Department in the afternoon of 22 June. The BD also issued a press release on the same day describing the inspection findings and the relevant follow-up work.

In response to media reports in the morning of 26 June suspecting the existence of an "unauthorized servant's room" on the lower ground floor of House 4, the BD conducted an on-site inspection in the afternoon on the same day. At that time, it did not identify any "unauthorized servant's room" or new UBWs, but noticed that the position of part of a wall of the original store room did not match with that shown on the original approved plan. As it was yet to be confirmed whether that wall was an unauthorized structure, and there was no sign of obvious danger posed by the wall and in its vicinity, the BD did not have sufficient justification to issue an advisory letter or a removal order. The BD issued a letter on the following day (that is, 27 June) to the Authorized Person (AP) and copy to the owner, requesting information on the construction and purpose of the wall, with a view to determining the necessary follow-up actions. Thereafter, the BD issued three written reminders to the AP urging him to furnish the information.

There are views questioning why, given the repeated failures to receive a response, the BD has not taken further actions, such as issuing a removal order and imposing an encumbrance, or invoking the power under the BO to apply for a court warrant or even break into the premises and asking the owner to break open the wall for detailed inspection. Deputy President, I must point out that, in handling building safety issues, the BD will, more often than not, require the parties concerned, including the owners, APs and contractors, to submit information in order to enable the Department to carry out the necessary investigation and determine the next course of action.

As far as UBWs are concerned, when addressing complaints about general UBWs or carrying out large-scale operations, it is often time-consuming for the BD to contact the owners a number of times before managing to enter the premises for inspection or collection of necessary information. In fact, the BD receives tens of thousands of reports or complaints about UBWs every year. For example, it received more than 40 000 UBWs cases in 2011. Out of resource consideration, the BD must put building safety in the first place when dealing with UBWs. It must also be pragmatic and exercise prioritization. It is impossible to indiscriminately deploy staff to break into premises or apply for a court warrant in each and every case. Therefore, the BD's consistent attitude is to encourage the owners to co-operate with it, unless the case concerned shows signs of obvious danger.

Let me cite a case for illustration purposes. In April this year, the media reported that some houses in a multi-house estate in the New Territories were suspected to have unauthorized basements. Over the past few months, the BD has been following up this case by, among others, issuing letters to request the owners to arrange for on-site inspections. Despite repeated attempts to contact the owners, some of these houses are not yet available for on-site inspections to date. However, given that no sign of obvious danger was identified by observation from outside the houses and out of resource consideration, the BD staff have not yet broken into the premises, nor applied for a court warrant in respect of this case.

Another case, Deputy President, is that the media reported in June last year that a house on Hong Kong Island was suspected to have an unauthorized basement. The BD has also been following up this case by, among others, repeatedly writing to the owner to request arrangements for an on-site inspection. The BD is now waiting for the owner to make such arrangements. As BD staff had not identified any obvious safety issues through observation from outside the property, they did not break into the premises, or apply for a court warrant either.

In the case of Peel Rise, the BD has also adopted the established practice in following up similar cases to issue letters to the owner and the AP asking them to provide information.

After the owner had issued a statement on his property on 23 November, BD staff conducted a site inspection of Houses 4 and 5 together with the owner's AP on the first working day that followed (that is, Monday, 26 November), in order to follow up and investigate the UBWs mentioned in the relevant statement. After the inspection, they briefed the media present outside the premises on the findings of the investigation. The BD also issued a press release to present the investigation findings in writing on the next day, 27 November. During its subsequent site inspection on 29 November, the BD confirmed that the floor space behind a wall on the lower ground floor of House 4 was an "actionable" UBW. The department issued an advisory letter to the owner on 3 December, advising him to remove the UBW as soon as possible. The owner and the AP are required to submit a remedial proposal to the BD in respect of the removal works, and the works may commence only after the BD has given its consent.

Deputy President, I have given a detailed account of the chronology and facts of the aforesaid case in the hope of letting Members understand that, in handling this case, the BD has all along accorded priority to carrying out on-site inspections in accordance with the established procedure, and then taken appropriate actions in a manner impartial to all pursuant to the BO and the prevailing enforcement policy. At the same time, the BD has also endeavoured to make public without delay the information related to confirmed UBWs and its follow-up work, with the objective of clearing any public concerns as soon as possible. In fact, in addition to briefing the media on the incident and issuing press releases, the Development Bureau and the BD have for many times provided information and explained the case to the Legislative Council in different ways. Since the incident, the Development Bureau and the BD have attended meetings of the Legislative Council Panel on Development as well. Furthermore, they have individually replied to four written and oral questions from the Legislative Council, providing Members with such information as the enforcement policy, details of the case and an account of how the case is handled. Where necessary, we are more than willing to provide Members with other relevant information.

As regards the comment that the Secretary for Development and the BD deliberately kept a low profile about the Peel Rise case while keeping a particularly high profile about the case involving Nos. 5A and 7 York Road, Deputy President, this remark is indeed ill-founded. In the York Road case, the media reported the incident for the first time on 13 February this year. The BD arrived there for an on-site inspection on 14 February but was unable to gain entry into the premises. Having subsequently contacted the AP appointed by the owner, the BD conducted an on-site inspection on 16 February. In comparison, in the Peel Rise case, as I have already said, the BD conducted an on-site inspection on the same day of report by the media. Besides, in the case of York Road, after the BD had conducted an on-site inspection, the Secretary for Development did not immediately and openly talk about the BD's enforcement actions. On the contrary, in the Peel Rise case, the Secretary for Development briefed the media twice on the inspection findings immediately on the very days of the BD's on-site inspections, that is, 21 and 22 June.

The allegation that the BD is shielding somebody is also absolutely unfounded. In the Peel Rise case, initially the media reported only a suspected unauthorized trellis in House 4 and the structures in House 5, but during the on-site inspection, the BD made observations in accordance with the established

practice around the premises where the suspected UBWs were located, and confirmed that there were several other unreported UBWs based on the findings of the inspection. The BD immediately followed up in accordance with the established enforcement procedure, and even took the initiative to disclose the findings to the media. All these actions show that the so-called shielding is indeed a far-fetched speculation.

Earlier on, Mr LEE Cheuk-yan asked whether the Secretary for Development had given instructions to the BD about how its enforcement actions should be carried out. As I said in my earlier replies to questions from Members, the Development Bureau is responsible for the formulation of policy, and the law-enforcement agency is the BD. The Secretary for Development has never given any instructions to the BD in relation to enforcement actions.

Deputy President, there were also allegations about the BD suspectedly letting somebody off the hook by taking no further action in the absence of any response to its letters repeatedly issued to the owner demanding provision of information about the wall on the lower ground floor of House 4. These are also inconsistent with the facts. Deputy President, without substantial information, would society agree to letting the BD rashly impose an encumbrance or apply for a court warrant to break into the premises, might I ask? In the circumstances at that time, the BD acted in accordance with the established practice to first require the owner and his AP to submit information, with a view to determining the necessary follow-up actions. I think this is absolutely reasonable. In dealing with building safety issues, the BD will often require the parties concerned, including the owners, APs and contractors, to provide information so that the Department can carry out the necessary investigation and determine the next course of action. On the basis of its inspection on 26 June, the BD could not confirm whether that wall was a UBW or not. Therefore, it did not have sufficient justification to issue an advisory letter or a removal order. As the inspection on that day did not reveal any obvious danger posed by that wall or in its vicinity, the BD follow the established practice to require the owner and his AP to submit information, with a view to determining the necessary follow-up actions.

As regards the allegation that the BD's senior officers have instructed the front-line colleagues not to follow up the matter of that wall, it is nothing but sheer fabrication. During the inspection on 26 June, the BD noticed that wall, of which the position did not match with that shown on the original approved plan.

Then it issued a letter immediately on the following day to request information on the construction and purpose of the wall. This shows that the so-called instruction not to follow up is by no means the fact.

Furthermore, the view that the BD is suspected of practising favoritism in handling the case *vis-à-vis* the York Road case is also untenable and unfair to colleagues in the BD. I must reiterate that, whether in the Peel Rise case or in the York Road case, the BD has been impartial to all in taking appropriate enforcement actions pursuant to the BO and the prevailing enforcement policy, without making any special arrangements because of the identity of the owner. However, we must also point out that each case has its own uniqueness. There cannot be a direct comparison between them.

In the case of York Road, the BD carried out an inspection on the fourth day (16 February) following the initial media report. At that time, quite a number of media reported on the condition of the house when it was under construction, based on information provided by people in the construction industry allegedly involved in the construction of that house. For example, information such as photos taken and plans used during the construction of the UBWs shows that this case might involve some people with statutory duties under the BO, such as the AP, Registered Structural Engineers and Registered Contractors, who had knowingly contravened the requirement that prior approval and consent should be obtained from the BD before the commencement of construction works and made misrepresentations to the BD. Therefore, the BD already had sufficient information at the time to decide on the need to launch a criminal investigation. In the Peel Rise case, similar situations and information have not appeared, but the BD will continue to analyse and assess the inspection findings, and follow up with the AP appointed by the owner, with a view to determining the necessary follow-up actions.

Deputy President, I hope that the series of facts cited just now can help Members get a clearer grasp of the truth of the incident, as well as an understanding that some of the recent allegations against colleagues in the BD are indeed without factual basis and absolutely unfair to the colleagues concerned. Moreover, in handling the Peel Rise case, the BD has been following the established procedure and — I reiterate — taking appropriate enforcement actions in a manner impartial to all pursuant to the BO and the prevailing enforcement policy. Meanwhile, the BD has also endeavoured to release information on

confirmed UBWs and its follow-up work to the public as soon as possible. In fact, in addition to briefing the media on the incident and issuing press releases, the Development Bureau and the BD have also, on various occasions and in different ways, provided information and explained to the Legislative Council about its handling of this case. For example, as I mentioned earlier, the Development Bureau and the BD have attended the meetings of the Panel on Development. Furthermore, and the Secretary for Development has replied to four written and oral questions from the Legislative Council, providing Members with such information as the enforcement policy, details of the case and an account of how the case is handled.

Deputy President, whether or not to invoke the P&P Ordinance is a very important decision. I implore Members to base their considerations on objective facts. In fact, the Development Bureau and the BD have all along given detailed accounts of the relevant policies and procedures, as well as the BD's inspection findings and the progress of its law-enforcement efforts. On the basis of the aforesaid facts, we believe that there is neither a need nor sufficient justification for the Legislative Council to appoint a select committee to investigate the case by invoking the P & P Ordinance.

With these remarks, Deputy President. I implore Members to oppose the motion proposed by Mr LEE Cheuk-yan.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy President, the Secretary for Development has made clear the specific facts just now. I hope Members will base their discussion on facts.

As we all know, the House Committee of the Legislative Council discussed on the 7th of this month a similar proposal raised by Mr LEE Cheuk-yan. The proposal ended up being rejected by a majority, upon a division.

In regard to this matter, the attitude of the SAR Government is consistent with that of the majority of Members. Now Mr LEE Cheuk-yan has proposed this resolution again. As before, the SAR Government opposes it. I will listen to Members' speeches before giving a response.

Thank you, Deputy President.

DR KWOK KA-KI (in Cantonese): Deputy President, if members of the public in Hong Kong did not hear LEUNG Chun-ying say on 10 December that "To my memory, I have never said that I did not have any UBWs"; if Hong Kong people did not learn anew the meaning of "open and transparent", Members would not have requested an inquiry into the incident by invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance). If what Secretary Paul CHAN said just now is true, I believe Mr LEE Cheuk-yan will not have proposed this motion. However, the fact is certainly far from this.

LEUNG Chun-ying has pointed out more than once to the public that the UBWs at Peel Rise are UBWs discovered in his residence for first time. The Buildings Department (BD) issued a statement in weird wordings earlier after a reply to an oral question of this Council was made by Secretary Paul CHAN last week. In the statement, the BD pointed out that in LEUNG Chun-ying's former residence — the mansion at Tung Tau Wan Road, Stanley — there is an object built with a wall, a staircase and a planked path. What kind of people will utter such words? That is actually an unauthorized private room. An Honourable colleague said that a barbecue pork bun should be described as a piece of dough in which there is something called "barbecue pork".

Apart from LEUNG Chun-ying, we can see that the so-called statements by senior government officials or the authorities — I have no idea of the ranking of the officials who have written such statements — are all playing "hypocritical rhetoric". According to media reports, there is another 2 000-square-foot unauthorized room which was home to some Hello Kitty plush toys. Instead of describing this as a private room, it should be described as a structure of walls. Next time, it should be described as cement and steel bars.

On 16 March this year, LEUNG Chun-ying attended a televised debate with Henry TANG, another Chief Executive Election candidate. LEUNG Chun-ying said, to this effect, "The problem of UBWs is not purely a problem of UBWs, it is a problem of integrity". This has also explained why we should hold this motion debate, which is definitely a serious one, in the Legislative Council.

From November last year to 10 December this year, we saw that LEUNG Chun-ying had lied numerous times. In November last year, he built another wall in a private room on the ground floor of House No. 4 for no reason. As the

Chinese proverb goes, "a person would reveal the truth if a ghost slaps the back of his head". LEUNG Chun-ying, who has worked as a surveyor for decades, has built an additional wall for no reason before telling his opponents, the media, the public and all the people of Hong Kong in a high-profile manner to the effect that "I have not lied. There is no UBWs in my residence. Any UBWs found subsequently have been totally disclosed."

Besides, at a Question and Answer Session of the Legislative Council on 16 July this year soon after he had assumed office, he indicated again that he had made a clean breast of all UBWs in his residence. It is most alarming that the BD has issued four letters since June this year. But we totally had no knowledge of this until the Oral Question time on 10 December this year and last week. Not only LEUNG Chun-ying has lied, the BD has also concealed some facts. Last week, we questioned Paul CHAN why the authorities had enforced the law in such a strange manner. While saying that all high-ranking officials and celebrities are treated on equally, Paul CHAN said that as there were as many as 40 000 cases of UBWs in Hong Kong, it was not possible to treat each and every case in the same manner and break into the premises. He added that the authorities would not adopt such an approach. In making those remarks, he seemed to have slapped himself as he had refuted his own account time and again.

We have read the Buildings Ordinance (Cap 123) very carefully. It clearly provides that the consent of the Building Authority should be sought for the construction or demolition of any unauthorized structures. In a reply to our question, Paul CHAN said that as the wall built by the Chief Executive is not a structural wall, no application for exemption is required. How ridiculous? The construction of a lawful wall to an unauthorized structure is tantamount to setting up a fake bank to accept deposits even though it is fake. And the Government claims that this fake bank can accept deposits according to law.

However, why did the authorities not query whether the wall is built to an unauthorized structure? Why did the authorities deceive the public? Certainly, we cannot arbitrarily invoke the P&P Ordinance, which is a weapon seldom used by this Council. However, in the face of a Chief Executive who has no integrity and dubious arguments of officials and statements of the Government, we have to inquire into the matter thoroughly. Since we can neither find the causes in the

Question and Answer Session nor obtain a detailed account by means of putting oral questions, what else can we do other than invoking the P&P Ordinance so that all relevant parties have to testify under oath according to the Rules of Procedures of the Legislative Council?

Obviously, this will give the public a clear account, apart from clearing the name of some professionals by taking this opportunity. Mr Tony TSE, who is not present at the moment, once said that we should not consider all surveyors of the authorities or staff of the BD derelict of duty due to this incident. We do not hold such a view. We are not so stupid as to think that the front-line surveyors or staff responsible for surveying are so brazen that they lie or talk nonsense in front of the Chief Executive-elect. Neither will they expose the truth. Certainly, they dare not do so. All statements should have been seen by the department heads, Bureau Directors or even LEUNG Chun-ying himself before issuance. This is precisely the reason why we should vote for the motion of invoking the P&P Ordinance in order to clear the names of all relevant parties in this venue of the Legislative Council and let the public know that the front-line surveyors, though they have tried their best to knock on the walls, are unable to tell the facts. Perhaps they are forbidden to talk despite their will.

It is certainly not worthwhile to discuss cases of UBWs as there are tens of thousands of such cases in Hong Kong. As we all know, this is not purely a problem of UBWs. LEUNG Chun-ying need not tell us about this. He has to give an account of it to all Hong Kong people and even the Central Government. If a person confidently said that he has not violated the law or lied, but eventually he is found that he was downright lying, he has to make a proper response.

Theoretically, we cannot demand LEUNG Chun-ying to step down before conducting any inquiry. However, he and his team as well as the pro-establishment camp have maintained that an inquiry is not necessary. If an inquiry can clearly demonstrate that he has not lied and the BD has acted entirely in accordance with the law, what is the problem? If a person is innocent, why is he afraid of being investigated? He will not be afraid of any investigation unless he has made mistakes, right? An innocent person will accept our investigation. What is the problem?

If the government departments concerned have all along been impartial and dealt with the incident with a clear conscience as Secretary Paul CHAN said, why are they afraid of discussing the matter here? Whom are they afraid of? Are they afraid of Legislative Council Members? Do they fear that their statements will be reported on the television? This is precisely because someone knows that the incident, from beginning to end, is a lie covered up by another lie with the collaboration of many people, including the law-enforcement staff. When has the Government degenerated to such a low level that an enforcement agency has to sing in chorus of some important figures?

Just now, Secretary Paul CHAN said that the authorities have adopted the same rule in treating LEUNG Chun-ying and Henry TANG. No one believes in such a statement. No one knows that the authorities have issued four letters. Neither the Government nor LEUNG Chun-ying is willing to mention these four letters.

Regarding on-site inspections, LEUNG Chun-ying clearly knows that there are UBWs in House No. 4. But he led the people to inspect House No. 5. How can he justify this? After having erected a wall to seal the secret room in order to avoid being seen by the others, he led them to inspect another house. How can he, as a surveyor, do something like that? There are many surveyors in the BD. Members can ask them whether they will employ such a method. A friend of mine is also a surveyor, who said that he has never heard of this.

We will, first of all, consult a surveyor whenever we want to inspect whether there is any UBWs or whether the property we want to buy is worthwhile to buy. Now, the surveyor said that he does not have such knowledge. LEUNG Chun-ying has all along maintained that he is not a professional and he has to hire other professionals. But so far, he has not answered our questions about which professionals, which surveyors and which lawyers he has hired to inspect the documents in order to confirm that there is no problem. We want to know who they are in order to do justice to LEUNG Chun-ying and clear his name. If anyone has willfully provided wrong instructions or advice to him, he is innocent. However, he should first of all reveal who they are under the protection of the P&P Ordinance of the Legislative Council. This is the spirit of an inquiry.

The Government has taken the lead to reject an inquiry by the Legislative Council in accordance with the Rules of Procedure. It has even encouraged Members of the pro-establishment camp to act in defiance of public opinion. Will the authorities not feel ashamed to face the public outside this Chamber?

Today, we in this parliamentary assembly have not yet voted on this motion, but we can expect that this "second step" will be quite difficult to take. There is never fairness in the Legislative Council because of the separate voting system, the existence of functional constituencies, as well as a lot of distorted and absurd mechanisms which cannot reflect public opinions. However, I believe members of the public will not accept that the Government repeatedly disallowing the Legislative Council to inquire into the incident. This will only lead to an undesirable result, that is, more and more people will take to the streets on the New Year's Day of 2013 in order to use their feet to tell the Government and LEUNG Chun-ying how much they trust the Government and the Chief Executive, and how much they think that the Government and the Chief Executive are telling the truth. Hong Kong will be hopeless if the Government goes on like this.

With these remarks, I support the motion. Thank you, Deputy President.

IR DR LO WAI-KWOK (in Cantonese): Deputy President, this motion proposes this Council appoint a select committee to inquire into the unauthorized building works (UBWs) in the properties of the Chief Executive of the Hong Kong Special Administrative Region, Mr LEUNG Chun-ying, at Peel Rise on the Peak and related issues with the powers conferred by the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance). Some arguments in support of this motion include doubts about the policies and procedures adopted by the Buildings Department (BD) and related authorities in handling the UBWs concerned being unfair. Some even question the BD intention of shielding the Chief Executive, arguing that what civil servants know is only to execute the orders given by their superior. I really find it difficult to subscribe to these queries.

As we all know, there are different grades in government departments, and each of them has their respective regulations and guidelines on the discharge of public functions. In the course of performing their duties, professional grade

officers, such as engineers, architects and surveyors, are not only required to follow the various regulations and guidelines promulgated by the authorities, but also the code of professional conduct and integrity of their own grades. In my opinion, if we accuse professional officers from the BD of shielding the Chief Executive with allegations simply coming out of thin air, or purely on the basis of some media reports, this would constitute great distrust of the professional officers engaged in relevant work, or even amount to an insult.

According to the Buildings Ordinance (BO), the BD has set out a series of enforcement policies targeting UBWs. Moreover, to address public concern, the Department has also in place a set of procedures to deal with the UBWs involving senior government officials and other public figures. More importantly, the Civil Service of Hong Kong has all along been famed for being impartial and acting in accordance with the law. Hence, the Council as well as other members of society should trust and respect the Civil Service, so that they will, according to the statutory requirements and established procedures, carry out investigations and take enforcement actions on the basis of their professional judgment without being subject to any external interference, as well as under the monitoring of society, the media and this Council. We should not hold any preconceived view and raise doubts of various kinds without substantive evidence. Otherwise, it would not only impede civil servants in carrying out their duties, but would also deal a major blow to the morale of professional grade civil servants.

In fact, the Department has repeatedly emphasized that as regards cases involving senior government officials and celebrities, they would conduct on-site inspections in accordance with established procedures and then take appropriate enforcement actions in an impartial manner, without making any special arrangements because of the identity of the owner. I consider this practice sensible and reasonable. On the contrary, if Members of this Council or members of the community require that the Department make special arrangements because of the identity of the owner in a specific case, are they not advocating double standards?

Deputy President, some may think that by invoking the P&P Ordinance to conduct an inquiry, the relevant government departments will be given an opportunity to clarify the matter to the public. However, government departments can actually make use of various ordinary channels and means to

clarify the incident to the public and give an account of it to this Council. Invoking the P&P Ordinance to conduct an inquiry would invariably use up a great deal of resources of this Council and society. It is inappropriate to invoke the P&P Ordinance concerned unless other channels and means are proved to be futile.

A number of Honourable colleagues have likened the P&P Ordinance to an "Imperial Sword". That is exactly the reason why this sword should not be wielded lightly, unless there is sufficient ground to do so. We should never put specific details of an incident aside and wield this "Imperial Sword" once a topic is "cooked up" to a certain point.

Deputy President, I so submit.

(Some in the public gallery clapped hands)

DEPUTY PRESIDENT (in Cantonese): Those in the public gallery please keep quiet. If you make noises again, I will order you to leave.

MR RONNY TONG (in Cantonese): Deputy President, just now, I have listened to the speech of Secretary Paul CHAN attentively. I am deeply astonished and disappointed by his speech. Deputy President, regrettably, he is not in the Chamber now. I hope he would have the opportunity to listen to me, for I do not want him to think that I am speaking ill of him behind his back.

When Mr Paul CHAN was a Member of this Council, I used to consider his arguments relatively objective and reasonable among the many Members of the pro-establishment camp. However, his earlier speech has left with me an entirely different impression. Certainly, Deputy President, some people in the Chamber may break into an applause to show recognition of his remarks. I understand that there are different views. However, as Secretary Paul CHAN said, the very important point is that we should base on facts, so we should lay out the facts for discussion. Yet, I can never imagine that an official who used to be a Member will only recognize the official facts but not the facts in the

community. Indeed, facts should not be differentiated into official facts and facts in the community, for facts are facts. If an incident occurs, it occurs; if nothing has happened, it should not be fabricated.

The Secretary has stated repeatedly that justice should be done to staff of the BD. Deputy President, I have utterly no intention of slandering or attacking the BD. I only hope that by invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance), justice will be done to the BD. In that case, I share exactly the same objective with the Secretary. But the Secretary urged Members to vote against the motion.

Another point is the Secretary's repeated call on the need to do justice to the BD. May I ask the Secretary who will do justice to the people of Hong Kong? Or, who will get justice done to Henry TANG? We are facing preferential treatment for one person to another and inconsistency in law enforcement, are we not? Precisely because of this, we have to invoke the P&P Ordinance to find out the truth. If he says that what he says is the truth and no investigation is required, this is not the spirit the legislature should uphold, nor is this the spirit we should have in conducting ourselves.

Deputy President, I would also like to point out that when a person intends to accuse another person, more often than not, not all the facts can be easily and readily confirmed in newspapers. For example, if a person killed another person, the only witness is dead, so how can it be proved that the person has killed the other person? Very often, we have to deduce the unknown fact from the known fact, thereby confirming the existence of the fact. We call this inference. Inference is known not only to lawyers but everyone with common sense and general thinking.

For certain inferences, such as the previous example on BBQ-pork buns quoted by Dr KWOK, when a person wants to eat BBQ-pork buns, he will order BBQ-pork buns to be delivered to him, yet how would he know that there is BBQ pork in the BBQ-pork buns? Deputy President, it is by inference. In that case, can we say that the bun is not a BBQ-pork bun when we cannot see the BBQ pork inside the BBQ-pork bun? If we cannot see the BBQ pork, how can we prove that it is a BBQ-pork bun, Deputy President? We have to put the bun into our

mouth and give it a bite in order to see the BBQ pork inside. So, more often than not, certain facts cannot be seen on the surface, yet we have reasons to believe that there is BBQ pork inside BBQ-pork buns, and so there is reason to believe that we have to investigate to confirm whether or not there is BBQ pork.

In fact, the BBQ pork, so to speak, involved in the UBW incident this time around is rather conspicuous. I will now discuss the facts with Secretary Paul CHAN. Deputy President, the first fact is the guideline on actionable UBWs accessible to the public. The basis of the guideline has always been the potential hazard posed to the public by the UBWs concerned, if the UBWs concerned is posing such hazard, it is classified as actionable UBWs. However, the guideline was revised on 1 April 2011, when the enforcement priority was changed. As the guideline states: "The scope of 'actionable' unauthorized building works will be extended to include all unauthorized structures on rooftops, flat roofs as well as those in yards and lanes of buildings (the New Commitments), irrespective of their level of risk to public safety or whether they are newly constructed." It is stated unequivocally in the eighth paragraph of the guideline that: "The Department has ceased issuing warning notices to the New Commitments with effect from 1 April 2011, as they will instead be served with removal orders under the new enforcement policy." Deputy President, the fact is that if the UBWs is "actionable" UBWs or items, the BD will no longer issue warnings but will issue removal orders immediately. In other words, the BD will not issue letters but will take immediate actions. Deputy President, this is the first fact.

The second fact is the remark made by the Chief Secretary for Administration to the media openly on 16 February, which was acknowledged by Secretary Paul CHAN and reiterated on other occasions. She stated in the remark that had UBWs been found in premises of famous people in Hong Kong, priority handling would be accorded to people who were more famous. Deputy President, two terms are involved here, the first one is "actionable" and the other one is the "priority handling". When a case is given priority in handling, it does not necessarily result in the discovery of "actionable" UBWs. Yet for "actionable" UBWs discovered, priority handling must be accorded. This is the second act.

Deputy President, the third fact is that the BD did inspect Mr LEUNG Chun-ying's house on the Peak in June this year on the grounds that the media had disclosed information about the presence of UBWs in Mr LEUNG's house, where certain media alleged that a secret room was there. Hence, the BD had inspected Mr LEUNG's house not because they considered it beautiful and wanted to have a look inside. They visited the house for a specific purpose. They inspected the house according to the media's report on the UBWs to check whether or not those building works existed. This is the third fact.

The fourth fact is that the BD found a wall during the inspection of the house and it confirmed at the time that the wall did not match with the basic building plan. Deputy President, by now, we still do not have full knowledge of the justifications held by the BD, for we have not had an opportunity to investigate it. That is why we consider an investigation into the incident necessary. Yet, we may still make a hypothesis. If it is said that a secret room is built in LEUNG Chun-ying's house, the secret room should be built by digging. If the secret room is built by digging, there should be a wall serving a protection function before the digging of the secret room took place. If digging is to be carried out, that wall has to be removed. The wall has to be removed in order to do the digging for the secret room. If a new wall is built, it does not mean that the secret room does not exist.

Deputy President, this is the inference on the BBQ-pork bun and the BBQ pork cited by me earlier. The logic is so simple and straightforward that a three-year-old would have understood. So when the BD, with knowledge of the reports by the media, inspected the house for UBWs, a secret room in particular, with a suspected mind, what conclusion would they come up with when they saw the wall not matching the building plan, Deputy President? Even had staff of the BD been three-year-old children, they would have guessed that there was BBQ pork in a BBQ-pork bun. In other words, if a newly built wall not matching the building plan is found at a location where a secret room is possibly found, will this not prompt their suspicion that UBWs may be present? This is the fourth fact.

The fifth fact is definitely the fact that the BD has not taken any action. They perfunctorily issued a letter to him after the inspection, and then the second, the third and the fourth letter. Deputy President, the fifth fact is that apart from

issuing those four letters, the BD had done nothing about the incident during those six months. To date, my colleagues and I still have not seen the content of those letters, and we have only heard the remarks made by the BD. We want to read those four letters, so that the BD will be cleared of its name. Yet we cannot read those letters. Deputy President, if we do not invoke the P&P Ordinance, how would we have the opportunity to read those four letters? Moreover, Deputy President, I do not know whether Mr LEUNG Chun-ying has eventually replied to those letters. The BD's remark was in the negative. I do not know what Mr LEUNG Chun-ying would say for he had not answered this question when he came to this Council and we did not have the opportunity to ask him. However, should we give him the opportunity to explain whether he has replied to those letters? This question leads to the sixth fact.

The sixth fact is that the BD visited LEUNG Chun-ying's house a fortnight ago. This time, without stating any reasons, the BD broke the wall to inspect the void behind it. It then gave a statement that a secret room in the void was "actionable" UBWs. In other words, the BD confirmed that the UBWs concerned conform to the first fact mentioned by me just now, that is, it is "actionable" UBWs under the revised policy guideline introduced on 1 April 2011, and they thus issued the removal order immediately.

I have to pose a question which a man with some intelligence and capable of independent thinking would have asked. What made the situation a fortnight ago different from that on 27 June? I hope Secretary Paul CHAN will return to this Chamber and answer this question: What was the difference? No procrastination and sluggishness; no blaming of others for not presenting the facts. Deputy President, the fact is there was no difference. I have not heard Mr LEUNG Chun-ying having sent a reply to the BD admitting the presence of UBWs and a secret room in his house, neither have I heard Mr LEUNG Chun-ying having invited them to remove the wall immediately. Actually, the BD should have the same suspicion or determination to enforce the law on both occasions, that is, in June and this month. In other words, when there is sufficient grounds to suspect the existence of an "actionable" item, that is, the item referred to in the guideline issued on 1 April 2011 which I mentioned earlier, the BD should give priority handling to such case, for I think no one will be more famous than LEUNG Chun-ying in Hong Kong. Had priority been accorded to the handling of the case, it would not have been procrastinated for six months and

it would not have prompted the issue of the four letters. Besides, the result would have been made known to us immediately.

If that is the case, in June, before LEUNG Chun-ying assumed office, all members of the public in Hong Kong would have known that a building structure warranting immediate action was found in LEUNG Chun-ying's house and the outcome of the proceedings would have been different. The difference was that the Court had been deceived and the truth had been covered up. Worse still, Secretary Paul CHAN came forward with a stern face and said that we should base on facts and ensure justice was done to the BD. I hope that Secretary Paul CHAN will find the video recording of my speech and listen to it before he speaks again. I hope he will respond accordingly.

Thank you, Deputy President.

MR WU CHI-WAI (in Cantonese): Deputy President, the problem of UBWs is common place in Hong Kong. Over the past decade or so, society has made enormous efforts in tackling this problem. As pointed out by Mr Ronny TONG just now, in tackling the UBWs in the urban areas in the past, the Government had drawn up guidelines to accord priority to dealing with new items or items posing immediate dangers. As for other situations, warning letters might be issued to require owners to take action to deal with them. Should the owners refuse to do so, the Government would "register a charge against the property titles concerned" to put the UBWs in question on record.

While UBWs in the urban areas were handled in this manner, the problem of UBWs in the New Territories has stirred up a big row because it cannot be dealt with by the conventional method. As small houses in the New Territories and UBWs in the urban areas were handled in different manners, members of the public already questioned the SAR Government for its failure to treat them in an equal manner and enforce the law in accordance with the same criteria under the same law.

But unfortunately, while these words are still ringing in our ears, the recent Chief Executive Election stirred up another big row over UBWs. The existence of UBWs in Henry TANG's residence gives people the impression that the

existence of UBWs in the residences of the rich and powerful in society appears to be a common phenomenon. As the incident was exposed during the Chief Executive Election, strict enforcement actions were taken by the BD to deal with Henry TANG's residence. According to the explanation given by the Secretary just now, strict enforcement actions were taken because there appeared to be *prima facie* evidence suggesting that the problem with Henry TANG's residence was not purely a case of UBWs. Rather, it involved the failure of an AP to take responsibility even though he was clearly aware of his liability in submitting false plans, and so on. This was why the BD conducted a criminal investigation into Henry TANG's residence.

As the incident unfolded, it was found that LEUNG Chun-ying's residence had a similar problem of UBWs, too. We can see that even though the BD has carried out an inspection and found some irregularities, it has not dealt with them in any special manner. It has merely issued letters again and again to pursue the APs involved in the incident to discuss how to deal with the problem.

MAK Chai-kwong made it clear soon after he had taken office that LEUNG Chun-ying would not be criminally prosecuted for his UBWs. In fact, the public would ask what evidence suggested that a criminal investigation should be launched into Henry TANG's residence, whereas it was unnecessary to do so for LEUNG Chun-ying's residence. If we refer to the statement issued by Mr LEUNG Chun-ying on 23 November, we will find that he stated clearly that he saw an unauthorized space (a servant's room) in his home, though he said that it was not built by him. In spite of this, the unauthorized space was found in his home. Similarly, this involves whether or not his residence was built by relevant APs in violation of the requirements of the Buildings Ordinance (Cap 123) at that time. Why was a criminal investigation deemed unnecessary even after the issuance of a statement by Mr LEUNG Chun-ying which clearly pointed out that his residence had UBWs inconsistent with the plans? Although both the BD and the Secretary have indicated that the Government will extend equal treatment to all, what we have seen is not the case because the Government has not conducted any criminal investigation into C Y's residence.

Looking farther into the horizons, let me talk about Mr LEUNG Chun-ying's residence at Tung Tau Wan Road, Stanley. The BD has merely

pointed out in its statement that columns, staircases, slabs, and so on were found during an inspection conducted in 2000. In spite of that, does it mean that the existence of UBWs at that time was no longer a problem? Can the UBWs already demolished be allowed to vanish into obscurity? Is the owner consider compliant with the requirements of the BO since he has failed to report the demolished UBWs to the Government even though their "remains" have been found?

Facing the UBW incidents involving LEUNG Chun-ying and Henry TANG, members of the public will feel that the SAR Government will only direct the spearhead at some powerless disadvantaged groups. The SAR Government dares not move those who are vocal enough, fierce enough or powerful enough, as well as those who enjoy a high reputation or status in society. This will only make the whole society question whether administration by the Government can stick to the letter of the law and act in accordance with law in an impartial manner.

Secretary Paul CHAN has repeatedly expressed his hope that Members can do justice to the BD. In fact, following the negation of the motion expressing no confidence in LEUNG Chun-ying last week, Mr LEE Cheuk-yan proposed this week that a select committee be set up under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to inquire into the incident. In fact, our goal is to really do justice to the BD, government departments and the aggrieved civil servants because we will clearly know who should be held accountable if we find in the course of the investigation that front-line civil servants had been pressurized by senior government officials under LEUNG Chun-ying's instruction. If it is found that there are no problems after an in-depth investigation, as with the inquiry conducted into the West Kowloon Cultural District Development Project, LEUNG Chun-ying might even thank the Legislative Council for doing him justice. So what is the rationale for not doing that?

In the face of public queries, what the Government should do is not to say a few words or, as Secretary Paul CHAN said, tell people not to have doubts as it has grasped all evidence and information and given an open and transparent account. Whether people have doubts hinges on their impression. As we often say, justice must not only be done, but must be seen to be done. This principle is most crucial; it is also a strategy the Government must adhere to in governance.

When members of the public are unclear and doubtful about certain acts of the SAR Government, the Government, including both Secretary TSANG Tak-sing and Secretary Paul CHAN, urges Members repeatedly to oppose this motion and not to conduct any inquiry instead on the ground that justice has been done. Does the Government believe the general public will be convinced when they are told that justice has been done? I do not entirely understand this logic.

Hence, the motion proposed by Mr LEE Cheuk-yan today is meant to enable the public to get all the information from this Chamber through a solemn and stringent investigation and all government officials who should appear before this Council to express their views and provide information to speak their minds freely in this Chamber under the protection of the law. Furthermore, if this investigation method is adopted, no one can evade their responsibility of appearing before this Council to provide information. This is the best way to do justice to the BD and the Government. It is also an appropriate way to salvage the SAR Government which is currently enjoying a low popularity and whose credibility is being questioned. If the Government refuses to conduct an investigation to find out the truth, the public will inevitably develop even more queries and misgivings which cannot be dispelled.

Some colleagues often call the P&P Ordinance an "Imperial Sword" which must not be drawn casually. So, should it not be drawn casually or not to be drawn at all? While many inquiries were conducted in the past, did they do good to society or not? The issue before us today, that is, the integrity of the SAR Government in governance, is a great concern to us. It is certainly worthwhile for us to draw this sword to do justice to the integrity of the SAR Government in governance. If we cannot invoke the P&P Ordinance to conduct an investigation to do justice to the integrity of the SAR Government in governance, are we not going to be suppressed by this doubt in the days to come? I do not believe LEUNG Chun-ying and his governance team will think that by hiding behind the voting machine of the royalist pro-establishment camp can see the public misgivings about him dispelled. Given such misgivings about the SAR Government, Members can only do justice to LEUNG Chun-ying through a credible system.

I recall that when former Chief Executive Donald TSANG was confronted with the incident involving his suspected acceptance of entertainment, two public

figures with credibility in society were appointed to set up an *ad hoc* investigation committee. The investigation report submitted by former Chief Justice Andrew LI has explained clearly how the Chief Executive can be made to face the public, and what procedures can be adopted to minimize and prevent the acceptance of this sort of entertainment and suspected corruption by the Chief Executive.

Fellow citizens, Honourable Members, as with the formation of an *ad hoc* investigation committee to do justice to the former Chief Executive when confronted by public queries, I would like to appeal to colleagues in this Chamber today to vote in support of Mr LEE Cheuk-yan's motion to invoke the P&P Ordinance to conduct an inquiry in order to do justice to the SAR Government. Being evasive is not an open and transparent attitude. Only by facing the truth and conducting an in-depth inquiry to uncover the truth can the SAR Government truly restore its integrity in governance. Moreover, this will enable us to take a big step forward in taking forward our work and policy in future. I believe the resources and time thus expended are absolutely worthwhile. Otherwise, we will continue to entangle ourselves with whether or not the Chief Executive has integrity and the BD has shielded anyone. The implications of these issues are far-reaching.

Hence, today I do not have anything more to say about Mr LEUNG Chun-ying's quotes because Members actually know them very well. During these past 10-odd months, we have seen him give inconsistent remarks, and so a stringent inquiry process is essential.....if he finds himself wronged by us, he should face us with nothing to hide rather than, as what he is doing now, being evasive in an attempt to dodge questions with "hypocritical rhetoric" (*The buzzer sounded*)

DEPUTY PRESIDENT (in Cantonese): Speaking time is up.

MR WU CHI-WAI (in Cantonese): Thank you, Deputy President. I support the motion.

MR TONY TSE (in Cantonese): Deputy President, the incident relating to the UBWs at the Chief Executive's properties on the Peak has lingered on for months

in society. Not only has the Chief Executive's integrity been called into question, but also the professional conduct and integrity of civil service professional grades have been innocently implicated. Some people hold that the Development Bureau and the BD are suspected of shielding the owner in this incident and for this reason, they hope to invoke the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to appoint a select committee to inquire into these speculations and queries and to ascertain whether they are true or not. This approach, which is like putting the cart before the horse, is extremely unfair to Civil Service professional grades and front-line civil servants who have all along been responsible and delivered remarkable performance.

As I said at the meeting of the House Committee on 7 December, if we agree to the appointment of a select committee to conduct an inquiry, does it not mean that we have assumed or even agreed that there are problems with the professional conduct and integrity of the Civil Service? This is not based on facts, but a trumped-up allegation. For this reason, I resolutely oppose invoking the P&P Ordinance to appoint a select committee to conduct an inquiry. I will continue to support the civil servants in handling each case impartially and in a fair, impartial and equitable manner in accordance with the law, just as they have been doing all along.

Deputy President, as a property surveyor by profession, I understand that the public has set higher standards for the Chief Executive, government officials and buildings or architectural professionals on issues relating to UBWs. Therefore, I do have reservations about the Chief Executive's handling of and explanation on the UBWs at his properties on the Peak, and I think that some of the points are unclear. In this connection, there have been many discussions on and criticisms of the Chief Executive in society, and a small number of people have even expressed dissatisfaction with and distrust in the Chief Executive.

Despite that the Chief Executive's handling of the incident involving his UBWs on the Peak and the responses given by him are far from satisfactory, he has given an explanation on various occasions recently, including his attendance in the Legislative Council to answer Members' questions. He has said repeatedly and openly that he had no intention to conceal anything and admitted negligence on his part and ambiguities in his explanations in handling his UBWs. He has also apologized to the public repeatedly, undertaking to rectify the

problem relating to his UBWs between this month and the next. He said that he would be extra cautious in future and that he would continue to uphold integrity in working for the well-being of the people.

I believe the Chief Executive has learnt a lesson from this incident and he has been under a lot of pressure and criticisms from the community. The incident just cannot linger on endlessly. Instead of allowing this incident to drag on continually, we had better look ahead into the future and work for the overall interest of Hong Kong in the long term by pooling together resources and energy to speed up our pace of work, with a view to tackling the pressing and important issues currently faced by Hong Kong, including issues relating to housing, land development, poverty alleviation and elderly care. Many members of the public and I expect the policy address to be delivered by the Chief Executive next month to introduce measures and policies that can provide relief to the people, thereby facilitating the continuous and healthy development of society and the economy.

Deputy President, with regard to the incident involving UBWs at the Chief Executive's properties, I have not seen any sufficient justification or realistic need for setting up a select committee to conduct an inquiry. Will the setting up of a select committee become merely a platform for a minority of people to hurl attacks at the Chief Executive and the officials, enabling them to put on a "political show" which is not in the least beneficial to the governance of Hong Kong and the overall development of Hong Kong society? Therefore, I reiterate that I oppose Mr LEE Cheuk-yan's motion of invoking the P&P Ordinance to appoint a select committee to inquire into the incident involving the Chief Executive's UBWs.

Deputy President, I so submit.

MR CHEUNG KWOK-CHE (in Cantonese): Deputy President, Confucius said some two thousand years ago, "The relation between superiors and inferiors is like that between the wind and the grass. The grass must bend, when the wind blows across it."¹ What he said is the role model effect of people in high positions. If we apply this teaching to present-day Hong Kong, it carries at least

¹ <<http://ctext.org/>>

two meanings: Firstly, if the integrity of senior officials has gone bankrupt and if the community does not pursue their responsibilities, the integrity of ordinary officials will tend to become corrupt. Secondly, if there is a lot to be desired in the probity and self-discipline of senior officials, the community can hardly expect any guarantee of integrity and self-discipline on the part of ordinary officials. The incidents of Donald TSANG travelling to Macao on a tycoon's luxurious yacht and his renting of a luxurious apartment, as well as the incident involving his good partner, former Chief Secretary for Administration Rafael HUI, who was suspected to have accepted advantages in the last term of the Government are indeed a warning with a deep impact. As the saying goes, "If the upper beam is not straight, the lower ones will go aslant."

Confucius also taught his students the principles of "letters, ethics, devotion of soul, and truthfulness"². Confucius considered "truthfulness" the cornerstone for the people in all their endeavours and for the state in its rule. The story goes like this: His student, Zi Gong, asked Confucius about the philosophy of government. Confucius replied, "The requisites of government are that there be sufficiency of food, sufficiency of military equipment, and the confidence of the people in their ruler."³ It means that the philosophy of government stresses three elements, namely, food, military equipment and people's confidence. In other words, the people must be properly fed and clad, the state must have sufficient military power to defend its people, and the government must command the trust of the people. Zi Gong further asked Confucius if a choice must be made, which of these three elements must be maintained till the end. Confucius replied that military equipment and food can be dispensed with, but not "the confidence of the people".

Deputy President, as we all know, honesty and trust are the mainstream values in traditional Chinese society. They are also the important principles that parents have been imparting to their children. In fact, in advanced countries in modern days, is it not the case that emphasis is put on the integrity of leaders? A country must certainly attach importance to integrity, and in society, be it relationships among people and business relationships, it is still necessary to rely on integrity in order to maintain these relationships.

² <<http://ctext.org/>>

³ <<http://ctext.org/>>

The incident relating to the renting of a luxurious apartment by Donald TSANG some time ago has actually reflected that the monitoring of officials in the highest echelons is very weak and feeble in Hong Kong. Hong Kong has a sound legal system. Never do we have blind faith in the ability of senior officials in exercising self-discipline. Never have we underestimated the possibilities of abuse of power by senior officials. This is why we believe in a sound system and we believe in the need to exercise monitoring on the Government. In fact, we have long learnt from the lessons of history that "power corrupts, absolute power corrupts absolutely". If powers are not restrained and the behaviour of senior officials is not monitored, powers will certainly be abused. This is an objective rule which is universally applicable.

Of course, from the angle of human nature, senior officials, like ordinary people, are not perfect and do make mistakes. This, I believe, is well understood by members of the general public. In this incident, however, the general view of the community on LEUNG Chun-ying's problems is that while he did know that there were UBWs at his properties during the election, he not only kept them secret but even attacked his opponent for having UBWs, in a bid to boost his own popularity. His performance at that time had objectively given people the impression that at least he was clean insofar as UBWs were concerned. Subsequently, his UBWs were exposed by the media, and how surprising it is that the remarks made by him to criticize his opponent back then can now entirely apply to himself without having to change one single word!

Some young social workers told me that after Mr LEUNG Chun-ying said "to my memory, I have never said that I did not have UBW", it has been deeply embedded in the minds of the people, and students have created a large quantity of mash-up works based on this remark, such as "Sir, to my memory, I have never said that I would not be late today.", and "Sir, to my memory, I have never said that I would not cheat on the examination." People of all ages in Hong Kong feel upset that our leader can go so far as to distort the truth, disregard his status, and set a bad example for children. But it is even more objectionable that these false statements made by him might have led to his victory in the election and enabled him to be elected the Chief Executive. In other words, just as some colleagues have said, he might have been lying his way to the office of the Chief Executive. If there is a problem with the credibility of the Chief Executive, there is a problem with the legitimacy of his administration. Considering this point, I think this is actually a very serious matter.

Deputy President, after this incident was brought into light, what remedial actions has the Chief Executive taken? As Members may recall, he went to Beijing and during this trip, he should have obtained the support of his superiors, and this is why after his return, the pro-government camp at all levels kept speaking up for him as a matter of course, urging the community to give him room to "do practical work". We have, therefore, come to realize that the accountability system in Hong Kong is already aligned with the State. We can easily see from CEPA that the essence of the accountability system is not to hold officials accountable to the public, but to hold subordinate officials accountable to their superiors and then, there can be smooth sailing forever after.

Deputy President, the dissatisfaction of Hong Kong people with the incident involving the Chief Executive's UBWs is obvious. Under the existing political structure, the channel for the public to pursue responsibilities is very limited indeed and now, the invoking of the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to conduct an inquiry has become the last thing that the public can do within the institutions to strive for the upholding of social justice. We all understand that the motion is highly likely to be voted down by the pro-establishment camp, but for the sake of justice and in order to speak the minds for the people, we can only try doing this to the best we can.

Deputy President, it is true that some members of the community support LEUNG Chun-ying. They believe the Chief Executive's explanation and consider that LEUNG Chun-ying has not done anything wrong and that the BD and the Development Bureau have been fair in handling the incident. They hold that even if they have made mistakes, they should be forgiven because the Government must go on working. I would not say that these views are no more than mawkish sentimentality, but facts speak louder than words. On the questions of whether the UBWs truly exist or not, or whether the Chief Executive has lied, we can find answers only from facts. So long as the facts and the process are open and transparent, I believe the public will certainly make a judgment. The P&P Ordinance is precisely enacted to deal with controversial issues of great significance to society.

Deputy President, I support that the P&P Ordinance be invoked to appoint a select committee to inquire into the incident relating to LEUNG Chun-ying's

UBWs, and I call on all Hong Kong people and co-workers in the social welfare sector to take to the streets on 1 January, New Year Day, to express their views.

I so submit.

MR CHARLES PETER MOK (in Cantonese): Deputy President, I support the proposed resolution today on invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to set up a select committee to inquire into the UBWs at Mr LEUNG Chun-ying's house on The Peak and the integrity problem involved.

Before coming to the discussion on Mr LEUNG's case, I would like to share with Members a recent story arousing my empathy and its association for me. In fact, a few days ago, I had told this in my newspaper column. The story is about a 10-year-old boy called "Kit" and his father "Tattooed Keung". His father left home one day and no one knew his whereabouts since. Kit missed his father very much, yet he was heartbroken by the irresponsible act of his father. Kit hoped that his father would repent and returned home, so he wrote a letter to his father. Since Kit did not know where his father had gone, he could only post the letter at the bus stop where his father would usually take the bus to work, hoping he would see it. This letter to a lost parent has been circulated widely on the Internet and some newspapers have carried reports on it.

As I read the letter written by Kit to his father "Tattooed Keung", some sense of familiarity struck me. Is the irresponsible behaviour of this runaway father who tries to avoid his families similar to the recent practice of Mr LEUNG Chun-ying who has been evading and concealing his problem of UBWs? When I read this letter on the Internet and the news, I cannot help thinking of the acts of Mr LEUNG Chun-ying, which have been irresponsible, ridiculous and selfish and have left the 7 million people in Hong Kong heartbroken. I feel the same helplessness overwhelming Kit.

I would like to borrow Kit's letter to his father "Tattooed Keung" to pour out the heart of Hong Kong people to Mr LEUNG. Following the writing style of the 10-year-old Kit, I think the letter posted outside the Chief Executive's house would read as follow: "What do you want? You have not told the truth! You keep telling lies! You keep digging holes! You keep building illegal

structures! You refuse to admit your fault! You fail to honoured your promise in the election! You will only meet with LEUNG's Fans to boast how good you are. You look flagging. Have you been taking drugs? Have you been taking the drugs of self-deceit, which have made you frightened to face the public? Chief Executive, why have you come to this pass? Every day, I try hard to give you advice, but you just turn a deaf ear to me. I go to the Government Secretariat to find you but in vain. I work hard every day for my future, yet you are only concerned about your personal success and glory. I am a member of Hong Kong. Why do you treat me this way? I am heartbroken. Yet, in the end, I still hope that the Chief Executive will repent like the prodigal son and be responsible by taking the blame and resign. This may be wishful thinking, yet I hope the Chief Executive will see this letter. Bye-bye, goodbye, Mr LEUNG. Yours faithfully, a member of the public."

Certainly, the analogy that Mr LEUNG is the father is unsuitable in a modern society in terms of concept. Such a relationship can only be established in the feudalistic society, yet I think many Hong Kong people will consider Mr LEUNG not qualified for being the parental government official even under that system. At the same time, in the face of Mr LEUNG, the Chief Executive returned by a small coterie with no public mandate, Hong Kong people, like children having no right to choose their parents, have no choice but to accept the irresponsible and lying Chief Executive.

But since he is the Chief Executive, he has to face the public. Even though he does not want to, we in the Legislative Council exercising checks and balances on the executive should press him to shoulder the responsibility. In view of the developments to date, he is still unwilling to face it, and we cannot but invoke the P&P Ordinance to press him to do so.

Deputy President, since the exposure of the incident of UBWs, LEUNG's Fans had kept saying that Mr LEUNG should be given a break. Alright, the public then gave him another break by waiting patiently for Mr LEUNG's explanation. What was the result? In the Chief Executive's Question and Answer Session last week, he still played "hypocritical rhetoric" and kept beating about the bush. When I asked Mr LEUNG whether he would give up his right of privacy to make public all the information, he refused. He refused on the excuse that it was the BD's usual practice of protecting the privacy of the parties

in question, and he refused to answer my question, claiming that it was a matter of personal choice. As follow-up questions and debate are not allowed in the Question and Answer Session of the Legislative Council, he took advantage of this procedure to dodge questions. This makes me and Hong Kong people feel all the more sorry and helpless. Therefore, once again, we can only request today that the P&P Ordinance be invoked to press him to face the problem.

I think myself and other Hong Kong people have been most accommodating to all the acts of Mr LEUNG. As such, why has he evaded facing the incident once and again? Why has he covered one lie with another? Has a mistake been made, admit it adamantly; has the mistake warranted punishment, take it unswervingly. Why be sneaky and furtive? Hong Kong people have been very kind to Mr LEUNG. They have given him one break after another. He could have adopted a truly sincere and above board attitude to make open all the facts honestly and impartially, but he had not done so. He could have made a sincere apology with a humble and guilty heart, but he had not.

If an average man refuses to admit his fault and thinks up feeble excuses to shift the blame, we may consider him irresponsible. But Mr LEUNG, being the Chief Executive, should not put his personal interest before public interest. Mr LEUNG should be ashamed in the front of Hong Kong people, for he has failed to fulfil the obligation of the Chief Executive, he has failed to be honest and law-abiding and he has failed to carry out his duties faithfully. After all, he has not put public interest before everything else. In that case, he is no longer qualified for the office of the Chief Executive.

Now, as Mr LEUNG allows the incident to drag on, even his supporters cannot be sure whether or not he has lied. Most of them can only say that he has only made a small mistake, so people should not dig into the incident and should let it go. They ask us to give him the opportunity to do some practical work. What a pity that LEUNG's Fans have to ignore the voice of their conscience to defend and explain for him. How would Mr LEUNG be so hard-hearted? He is not only telling lies every day but asking his supporters to tell lies or cover up his lies every day. As I said in the debate on the motion on vote of no confidence in LEUNG Chun-ying held last week, "This is the most pathetic Hong Kong people have swept the integrity problem under the carpet. No one is

irreplaceable we learn from history that if the problem in hand is not properly handled, Hong Kong will definitely suffer."

Deputy President, once again, I have to emphasize that no one is irreplaceable. As the saying goes, it is better to suffer short-term pain than prolonged torture. We should not disregard the truth and justice and simply focus on giving Mr LEUNG time to make achievement as a remedy for his mistakes. If Hong Kong people's perseverance for justice is just skin-deep and if they yield to the temptation of being opportunistic, the future of our next generation will be most pathetic.

Deputy President, given the developments so far, Mr LEUNG has all along been evading his problem of UBWs. Some time ago, he even said to the effect that "the UBWs have been dealt with, so there is no UBW." He has tried to fool the people of Hong Kong again and again, only hoping to procrastinate and play down the incident. Even for some straightforward questions, for example, whether he will give up his right to privacy on the UBW incident, whether he will make open all the relevant documents and whether he will allow the media to enter the site for inspection, Mr LEUNG has declined to give a direct answer. How regrettable.

Mr LEUNG has disappointed the public who have shown accommodation and patience to him for he has chosen to conceal the truth and put his personal interest before that of the public. As such, the only option to investigate his UBW incident is to invoke the P&P Ordinance to set up a select committee. Only with the setting up of the select committee will Mr LEUNG be prevented from defying the monitoring by the public and giving irrelevant replies to our questions.

Deputy President, in my view, the invoking of the P&P Ordinance is not a question of "why" but that of "why not". I understand that whenever we propose that the P&P Ordinance be invoked to pursue responsibility for incidents involving public interest, and when the witnesses refuse to tell the truth, Members from the pro-establishment camp will dub the Ordinance as the "Imperial Sword" which should not be drawn hastily. The fact is that they have already formed a judgment before the examination, so they do not bother to carry out the examination, and they refuse to collect evidence but just let the culprit free

without seeing the evidence. This is unreasonable, unjust and unacceptable. Yet this has happened for a number of times in the legislature. Concerning this practice of the pro-establishment camp, I hope the public will have a clearer look at them and remember their deeds. When the "Imperial Sword" cannot be deployed once and again as the circumstances warrant, it will be reduced to something comparable to a salty fish, as in the plot of the movie "Hail the Judge" starring Stephen CHOW.

Deputy President, really, we do not want to drag on with this. Though we do not want to drag on, it does not mean that we will disregard the truth by sweeping the rubbish under the carpet. Some colleagues, like Mr LEUNG, are pulling civil servants into the troubled waters, and I am greatly disappointed about that. They are trying to shift the focus and create confusion. We are seeking to investigate the conduct of Mr LEUNG but not that of civil servants. On the contrary, we are trying to do justice to civil servants. We want Mr LEUNG Chun-ying to tell the truth to the public, so as to be accountable to the public. I request Members of the Legislative Council to invoke the P&P Ordinance to inquire into the incident so as to do justice to the public.

Deputy President, I so submit.

MR MARTIN LIAO (in Cantonese): Deputy President, the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) is regarded as the "Imperial Sword" of the Legislative Council by members of society, for under the P&P Ordinance, the Legislative Council is conferred with the supreme power of inquiry, exerting significant monitoring effect on the administration by public officers and the Government. A select committee may summon any person to testify before the Legislative Council and present relevant documents in respect of the incident under inquiry. Since such power is enormous and unrestricted, we must be cautious in invoking the P&P Ordinance. Only when no other alternative is available or in extremely extraordinary circumstances should we deploy this "Imperial Sword" to carry out an investigation into an incident involving significant public interest.

If this privilege is exercised arbitrarily, it will not only waste public money but also affect the credibility of the Legislative Council. Based on this principle,

all along, the Legislative Council has invoked the P&P Ordinance only for incidents involving significant public interest, including the inquiries into the confusion at the commencement of the operation of the Chek Lap Kok airport in 1998, the scandal on the substandard piling works of Home Ownership Scheme flats, the handling of the Severe Acute Respiratory Syndrome outbreak by the Government and the Hospital Authority and the Lehman Brothers minibonds incident.

However, regarding the invoking of the P&P Ordinance by the Legislative Council previously to inquire into the omission of declaration of interest by Mr LEUNG Chun-ying, who was a candidate in the Chief Executive Election at the time, in the West Kowloon Reclamation Concept Plan Competition, a great controversy had been aroused in society. At that time, I was only a member of the public, and I was not one of the LEUNG's Fans, so to speak, so I was baffled by the Legislative Council setting up a select committee to inquire into the incident of omission of declaration of interest in relation to the West Kowloon development. Since the inquiry was carried out during the Chief Executive Election, there were widespread comments querying that the inquiry was a tool to undermine the election engineering of Mr LEUNG Chun-ying. Eventually, the committee completed all the hearings within a short period of less than two months and expressed dismay at LEUNG Chun-ying for not according sufficient attention and omitting declaring a conflict of interest. However, the champion of the competition, Norman Foster, was found to have frequent business exchanges with one of the member of the Jury from Britain in the inquiry, yet the Select Committee did not examine this in-depth, which prompted queries about the fairness and impartiality of the inquiry.

Deputy President, as to the question of whether we should invoke the P&P Ordinance to inquire into the UBWs at Mr LEUNG Chun-ying's house on The Peak, I think, basing on the primary principle mentioned, we should first decide whether the incident involves significant public interest. According to the statements made and papers issued by the Chief Executive on 23 November and the follow-up carried out by the BD so far, I do not see that there is sufficient *prima facie* evidence proving that there has been power abuse, shielding and favouritism on the part of the BD, for the BD has announced the existence of UBWs in the house. Besides, the incident does not involve the violation of any law.

In my view, the greatest point of dispute in the incident, which is the point arousing the deepest dissatisfaction with the Chief Executive among the public, is his act of handling the unauthorized basement in a private manner. Was the incident an act of negligence, or was it a deliberate cover-up? Was it an attempt to put him in a favourable position in the Chief Executive Election? If it was a deliberate cover-up on the part of the Chief Executive, it would be a matter of integrity. In other words, the focus of the investigation should not be on the facts but on integrity. The Administration and LEUNG Chun-ying have given explanations on the incident more than once, the Chief Executive has taken questions from colleagues in the Legislative Council, and the BD has confirmed that the brick wall does not involve the structure of the building and is classified as exempted building works that does not require prior approval of the BD. I would like to point out, since it is a matter of fact, even if the Chief Executive is questioned a hundred times, he will only repeat the previous answer. In that case, is it still considered necessary to invoke the P&P Ordinance?

Concerning the integrity of the Chief Executive, doubtless, the approach adopted by him in handling the incident is extremely inappropriate. His failure to give a clear account of the case and his indecisiveness has aroused doubts about his personal integrity, which has also threatened the effective governance of the Government as a whole. However, whether the Chief Executive's integrity is questionable involves a most subjective moral judgment, which can hardly be proved by objective facts. In this connection, the Chief Executive and the SAR Government has to pay the political price. The Chief Executive has come to the Legislative Council in person to give explanations and admitted his negligence and inappropriate handling of the case, and he has apologized for a number of times. Those who have heard his explanations must have a rule in their hearts and formed their own views about the incident, so it is utterly unnecessary to invoke the P&P Ordinance to prove the views we have formed in our heart.

Moreover, if the P&P Ordinance is invoked to examine a moral issue, enormous manpower and resources will be expended to turn the Legislative Council into a court of ethics. Is this the right approach? In fact, many former and incumbent Members and officials have been found to have UBWs of various scales at home, should we then invoke the P&P Ordinance to investigate each one of these UBW cases? Why do we adopt double standards in this respect?

If the select committee is set up with the objective of forcing the Chief Executive to step down, it is only an attempt to turn the P&P Ordinance into a political tool to ally with supporters and persecute opponents, which is suspected abuse of the P&P Ordinance that will undermine the authority and credibility of the Legislative Council.

For the aforesaid reasons, Deputy President, I oppose the motion. I so submit.

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

DR FERNANDO CHEUNG (in Cantonese): Deputy President, the issue under debate today is Mr LEE Cheuk-yan's proposal on invoking the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) for the setting up of a select committee to inquire into the UBWs at the house of Chief Executive LEUNG Chun-ying. Our major focus is the underlying concerns brought about by the UBWs which is, as Mr Martin LIAO said, the integrity of the Chief Executive. This is a solemn question, which is also an issue arousing considerable doubts among the public.

Since the integrity of the Chief Executive is called into question, the legislature proposes invoking the P&P Ordinance to inquire into this matter of great import. This power should not be exercised hastily. As a number of Members from the pro-establishment camp said, this power is comparable to the "Imperial Sword" or a potent weapon, which should not be deployed arbitrarily. However, today, we are facing a very important issue.

(THE PRESIDENT resumed the Chair)

Just now, Mr Martin LIAO queried whether significant public interest was involved in the case. If there is a problem with the integrity of the head of a region, and if he is found telling lies blatantly and covering one lie with another, does this involve public interest? The Chief Executive is vested with supreme

powers in formulating various public policies — including public policies involving colossal economic interest — and making decisions, but if his integrity is in doubt, is it a matter of public interest?

If we consider that there is no problem with the integrity of LEUNG Chun-ying and the governance of the SAR Government, and thus there is no integrity and governance crisis, then it naturally does not involve any significant public interest. However, I believe, when Hong Kong people are asked whether they trust LEUNG Chun-ying, most of them will answer in the negative. In that case, and given the supreme authority vested in LEUNG Chun-ying, which empowers him to make various decisions for the future of Hong Kong, how would Members say that the issue does not involve significant interest? We still have lots of doubts which require LEUNG Chun-ying to come to this Council to explain.

Earlier on, a number of Members, including Mr Tony TSE, have related the issue to the conduct of civil servants and pointed out that the conduct of the civil service team should not be presumed to have a problem. In my view, this incident actually bears no direct relevance to the conduct of the civil service team. Our objective is to find out whether LEUNG Chun-ying has lied and deliberately covered up the case before and after the election, in the past six months or so, now when he is the Chief Executive and when he came to the Legislative Council to fulfil his constitutional obligation. All these issues are solemn and important issues. Members should not relate the incident to the civil service team. Neither should they attempt to shift the focus by raising other questions. We are talking about a very important issue.

President, not only is this Council concerned about the incident, the media have been raising specific queries about House Nos. 4 and 5 of the Chief Executive in the past few months. I may list some of the queries raised by the media off-hand, and the content of the queries is very clear.

First, since LEUNG Chun-ying noticed that there was an unauthorized basement at House No. 4 as early as last October, why did he not report this to the BD at the time? Why did he not announce it to the public? Why would he consider he could erect an unauthorized wall to cover the secret room of his own

accord? Did he try to destroy the evidence? All these issues warrant explanations to the public.

Second, the BD has confirmed that the unauthorized underground room at House No. 4 covers an area of 323 sq ft. Given this, why did LEUNG Chun-ying state in the written statement that the underground room only covered an area of 200 sq ft and that he had never measured the size of the underground room? President, he is a professional estate surveyor, he should have known it at a glance, why would he have been so negligent?

Third, when the media asked LEUNG Chun-ying whether an unauthorized room was built in House No. 4 in June this year, why did LEUNG deny that? Had he been forgetful or had he covered it up deliberately?

Fourth, the BD had issued four letters to LEUNG Chun-ying to seek explanation about the brick wall, yet he had not replied to any of those letters on the excuse that a lawsuit was in progress. However, at the time the first letter was issued by the BD, the lawsuit had not yet commenced. So, why had he been so unwilling to give a reply? Had he been making deliberate procrastination or had he done so for other reasons? He was the Chief Executive-elect at the time, how would he have failed to reply to the letters issued by public departments that would be under his command?

Fifth, LEUNG Chun-ying said that he had found a friend who was a building surveyor to examine his house. If so, why were no UBWs found at the time, including the secret underground room which LEUNG Chun-ying has claimed to be left by the former owner of House No. 4? There are indeed many queries about the incident.

Sixth, who was the expert appointed LEUNG Chun-ying at the purchase of the properties? Why was a written examination report not submitted at the time?

Seventh, according to the reports by various media organizations, a secret room of at least 700 sq ft, or as large as 2 000 sq ft in area, is found in LEUNG Chun-ying's house in Stanley. Are the reports of the media true? The incident is still developing.

Regarding his Houses Nos. 4 & 5 and the present house in Stanley After Mr LEE Cheuk-yan had put forth the present motion, the case of his house in Stanley saw some new developments. After LEUNG Chun-ying attended the Chief Executive's Question and Answer Session, the BD suddenly announced that the BD had handled the UBWs at LEUNG's house in Stanley 10 years ago, and pointed out that the UBWs had been removed at the time. Why did the BD choose to announce the information at such timing? The BD had known of the UBWs 10 years ago, why did it make the announcement only after so many years? Why did not the BD announce the information when the media made enquiries about the situation of that house? Why did the BD not announce the information before the Chief Executive attended the Question and Answer Session but right after it?

In LEUNG Chun-ying's response to the media in 2000, he said that at the purchase of the residence in 1984, he noticed at the time that some of the structures were unauthorized building works, and since he had not checked the plans, he had not removed those structures immediately. However, in the Question and Answer Session held last Monday, which was 10 December, LEUNG Chun-ying pointed out that after he had moved out of that house 10 years ago, he was notified by the BD that there were UBWs in the property. Were the UBWs discovered by LEUNG Chun-ying or the BD? Though LEUNG Chun-ying said that he noticed the existence of the UBWs after the purchase in 1984, photos taken by the media from height indicated that the unauthorized corridor at the house came into being only in 1987. So, who built the unauthorized corridor and the underground space?

Many questions are left unanswered! We have a series of questions about the three houses, but LEUNG Chun-ying refuses to face these questions. Even when he came to the Legislative Council to attend the Question and Answer Session, he had only demonstrated his incomprehensive and untrue version of being open and transparent when his integrity has gone bankrupt. I believe Hong Kong people who have seen all these will know that he is obviously covering up something.

Despite the Chief Executive's cover-up and integrity problem, Mr LIAO and the pro-establishment camp still oppose inquiring into his case of UBWs on the grounds that the inquiry is useless for it involves integrity. If so, what should we do?

President, as a saying goes, "if a government is not trusted by its people, it ends". There are remarks as follows. "If he has built another brick wall and dug another basement, or built all kinds of UBWs, we should still let him go, for he has already handled the case!" "Even if there is an integrity problem with him, we can do nothing about it. Should he admit it? He surely has to lie and cover up the case, for the Chief Executive cannot admit his fault, is it not true? If he admits he is wrong, how can he continue to govern Hong Kong?" Should this Council subscribe to these views? Should we act this way?

I think the situation should be just the opposite. When a person makes a mistake, he should admit it. For instance, a few days ago, Members had to attend the meeting of the Panel on Development of the Legislative Council, but I was late on that day. When we have done something wrong, we should admit our fault direct. A mistake is a mistake. He should apologize to the public. This is a basic attitude.

We are the model of the public and the Chief Executive is the model of the next generation. Many young people and the next generation are observing political leaders and learning their styles in conducting business. If the Chief Executive can tell lies blatantly and this Council has been rash in this respect, are we adopting an attitude comparable to Mr Cha Buduo's attitude depicted by the writer HUO Shi? Are we being aloof and perfunctory? "Let it be! What is so important about the Chief Executive telling lies?" "It does not matter whether the unauthorized structure is 300 sq ft or 400 sq ft big and it does not matter when has he built the brick wall, for he has already sealed up the secret room, it is no longer a problem." "He had already come to the Legislative Council to attend the Question and Answer Session, and we could do nothing, for we actually expected that he would put up a show and tell lies, so when he did so, we could just let it be!" "His conduct is not related to his governance. Even though he tells lies, he has done something good afterwards, and if he continues to fulfil the role of the Chief Executive in a responsible manner, the public will accept him, and it is not a problem." Are we going to play Mr Cha Buduo?

Are we going to tell the next generation that we should be proud of this man? Are we going to tell the next generation that since he is our leader, his inadequacy in character and integrity does not matter? Are we going to tell them that though he will lead Hong Kong and make important decisions, and his

decisions will affect the well-being of tens of thousands of people and involve great interest, his integrity is not that important? "He has won the power and the position, so he is a capable person, and though he has got the position by telling lies, he is a capable person." "It does not matter, for he has now come down from his high horse to admit his fault and tender apologies, stating that there is negligence on his part — though we all know he is not being negligent. No matter how, it is most important that he can get the position, and this is the key to success." Should we teach the next generation with all these?

If government officials and the pro-establishment camp in the Chamber consider this is the key to success for Hong Kong, if the pro-establishment camp considers that the integrity of the Chief Executive bears no relevance to his competence in governance and it will not cause the public to doubt each of the future polices, if Members representing the public consider that he or she is not obliged to query whether LEUNG has lied and that all the issues are unimportant and public interests are not involved, and if they for these reasons choose to keep aloof and act perfunctorily, continuing to play Mr Cha Buduo, I urge them to vote against the motion.

I implore Members to seek the voice of their conscience. Will you tell your children that LEUNG Chun-ying is an example to them and they should learn to follow his conduct? Or will Members tell their children that the moral of the incident is that if they have to deceive others in future, they should not adopt these poor tactics, and if they want to deceive others, they should do it thoroughly? Is this what they will do? Is it the story of Hong Kong? If it is, I urge you to vote against the motion?

With these remarks, President, I support Mr LEE Cheuk-yan's motion, for the UBW incident of the Chief Executive warrants a thorough investigation.

MR YIU SI-WING (in Cantonese): President, the UBW incident at the Chief Executive's houses has now dragged on for more than five months. The parties concerned and government departments involved have one after another made responses through various channels. The Chief Executive also came to the Legislative Council last week to give explanations and make open apologies. While we may hold different views and understanding of Mr LEUNG's account

of his UBW incident, his attitude of facing the problem squarely is recognized. The new Administration's determination to ameliorate social problems and improve people's livelihood is also beyond doubt.

President, the series of reports on UBWs started in late June. At the early stage of the incident, the Chief Executive constantly responded to enquiries and tried to handle the alleged unauthorized structures. After the relevant judicial proceedings were finished, he also took the initiative to issue a written statement, which ran into 14 pages and contained 51 paragraphs, and came to the Legislative Council to give explanations in person.

As we can see, except for following legal advice to remain silent when proceedings were in progress, the Chief Executive has faced the problem with a positive attitude and tried to give an account of the UBW incident both in the Legislative Council and on other public occasions.

It is undoubtedly disappointing that the explanations given by the Chief Executive cannot completely clear the air and he performed poorly in the Question and Answer Session of the Legislative Council. However, unauthorized structures do not warrant his stepping down. Many members of the public expected the Question and Answer Session of the Legislative Council to bring an end to this controversy. They are fed up with the persistent political bickering and hope that we would refocus social resources on enhancing people's livelihood and boosting the economy.

In fact, over the past 15 years after the reunification of Hong Kong, only four motions of no confidence have been moved and the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) has been invoked only five times. However, the current-term Legislative Council has in the last two months already moved motions of no confidence in two Bureau Directors and the Chief Executive respectively, while having held adjournment debates to call for the stepping down of an Executive Council Member and twice invoked the P&P Ordinance. It should be noted that the P&P Ordinance is hailed as the "Imperial Sword" of the Legislative Council. Members of the public would normally place higher expectations on it. They especially do not want such power to be abused, affecting its authority.

President, we can criticize the way the Chief Executive handled the UBW incident as it fell short of the expectations of the public. However, we should not therefore brush aside all his performance in administration after taking office. That is also unfair to the civil servants and politically accountable team who have been serving the public with their utmost. According to a public opinion poll conducted by the University of Hong Kong early this month, the popularity rating of the Chief Executive has dropped while the ratings for members of his governing team have generally gone up. It reflected that the public are disappointed with the Chief Executive's UBW incident but recognize the Government's performance in administration.

In addition, as shown in the latest public opinion poll of The Chinese University of Hong Kong, the popularity rating of the Chief Executive has rebounded to the past level since November. It is mainly due to a number of livelihood measures taken by the Government since it took office. They include the tackling of "doubly non-permanent resident pregnant women" problem, the stabilizing measures for the property market and the Old Age Living Allowance, all having come into play positively.

It is the Government's responsibility to propel the community forward for the betterment of the general public. The public at large also expect the Government to care more about the economic and livelihood issues in the territory and cope with competition from neighboring regions. If we continue to be entangled in the political problems, the Government and its officials will be exhausted from "defusing bombs" all days and cannot stay focused on effective administration. That will only bring chaos to the community, resulting in a situation of "all-loss" for the Government, political parties and members of the public.

President, the policy address is an important policy paper outlining a blueprint for the future development of Hong Kong. It is now just a month or so before the announcement of the policy address. It is worth while for everyone to ponder whether we should continue wasting our time and energy on investigating the UBW incident or let the Government and the community rally their efforts on addressing livelihood issues on both the internal and external fronts.

The issue of UBWs has already caused a negative impact on the Chief Executive and the Government. Our society has also paid a price for it. An

experience gained is a lesson learnt. We hereby hope that the Chief Executive would learn from experience and avoid making the same mistake again, while redoubling his efforts to regain the confidence of the people with achievements. It is important for him to pull himself together after a painful experience and handle any future crisis in a timely manner with great transparency. He should, in particular, strengthen communication with the Legislative Council to avoid any unnecessary misunderstandings. Only then can he walk his talk of "getting back on track with the community".

With these remarks, President, I oppose invoking the P&P Ordinance to investigate the Chief Executive's UBW incident.

MR MICHAEL TIEN (in Cantonese): The three steps to topple LEUNG Chun-ying initiated by the pan-democrats are: moving the motion of no confidence, invoking the Legislative Council (Power and Privileges) Ordinance (P&P Ordinance) for an inquiry, followed by initiating an impeachment resolution. I expect the fallout from the Chief Executive's lingering UBW scandal will be tremendous. The pan-democrats probably would keep talking about it till the end of the term. However, I think we should, above all, look at it from a broad perspective. If the passage of the motion of no confidence and the impeachment resolution spells the immediate demise of the Chief Executive, he will come under pressure to step down. I believe many Hong Kong people do not want to see such a situation arising. Therefore, I will vote against it without hesitation. This is to say in advance my voting stance on the impeachment resolution if it is to be voted on.

As for invoking the P&P Ordinance for an inquiry, it is a much tougher call. Although passing this resolution may not guarantee that the inquiry can dig out enough evidence to bring down the Chief Executive, members of the public would feel much better. Also, one criterion for invoking the P&P Ordinance for an inquiry is whether it involves significant public interest. In other words, if alleged sexual harassment falls within this scope, I agree that it is logically wrong to say that the Chief Executive's integrity does not warrant investigation. As the pan-democrats always said, "Why on earth can we not conduct an investigation?"

However, I have looked up the history and found that invoking the P&P Ordinance to conduct an inquiry would consume enormous manpower and

resources, draining much energy, wasting lots of money and very often bearing no significant fruit. What the Chief Executive has repeatedly explained about the UBWs at his Peak houses is actually more or less the "same old story" without any breakthrough. Members of the public are already fed up with it. I have been receiving emails and Facebook messages almost every day. Over 70% of the messages are urging us not to talk about it anymore or wondering if we can talk about other topics. Of course, some say "no" and insist on investigating until the bitter end. I also have to reflect public opinion by all means.

If we are going to investigate whether the Chief Executive has lied, he will just turn himself into a "human tape recorder". Even if we questioned him a hundred times, he would just say, "I did not lie, I have not lied." That definitely cannot change the views of those who think he has lied. In my opinion, the only thing that merits invoking the P&P Ordinance to conduct an inquiry is whether government departments have shielded him or concealed some confidential information and refused to disclose it. However, the present mainstream opinion suggests otherwise. People just think that the Building Department has handled the same type of cases at a varied pace. If the Legislative Council conducts an investigation, have we ever considered two things? For one thing, there seems to be no time limit for an inquiry conducted by invoking the P&P Ordinance — I have never taken part in such an inquiry as I am a "newcomer" — it can take months or years. For another, summoning a large number of witnesses, including the Chief Executive, Directors of Bureaux, Secretaries of Departments, Heads of Departments will definitely affect government operation, as we all know only too well. Although it will not be as worse as bringing the Government to a complete standstill, the Government's normal operating efficiency will definitely be dragged down to near zero. As the policy address is going to be announced very soon, what can we do then?

President, Hong Kong has been developing at a slower-than-turtle pace in recent years. This sort of political bickering can drag on forever. Should we let it continue? If it goes on like that, what is the need of always vowing to compare ourselves with Singapore and other cities? We have already made ourselves "game over".

After all, no matter how the Legislative Council proceeds with the investigation and whatever its results may be, it will trigger a side-effect that

surely dampens the morale of civil servants and tears apart the relationship between the Legislative Council and civil servants. No matter how my colleagues earlier tried to convince us by saying "It will not be that case, we will just report facts", a relationship once broken is really hard to mend. I earnestly call on Members to think twice about it.

Besides, I firmly believe in the professionalism, impartiality and selflessness of the civil servants in Hong Kong. They would absolutely not show favoritism to a Chief Executive whose tenure lasts for only five to 10 years, let alone concealing information and shielding him. All the points I have made are reasons for opposition to invoking the P&P Ordinance to conduct an inquiry. After weighing various priorities of expressing deep disappointment with the way the Chief Executive handled the UBWs, and the years-long internal arguments in Hong Kong once an inquiry is launched, I really have no option. I have mulled over this matter for days. If you do not believe that, please check with Mrs IP. After hearing the speeches by Members, I finally decided to put aside personal disputes and take the heat to rise to speak. I will vote against the motion.

I so submit.

MS STARRY LEE (in Cantonese): President, I speak against the proposal put forward by Mr LEE Cheuk-yan to invoke the Legislative Council (Power and Privileges) Ordinance (P&P Ordinance) and form a select committee to inquire into the UBWs of Mr LEUNG Chun-ying.

President, the P&P Ordinance is an "Imperial Sword" of the Legislative Council. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), as always, is extremely prudent in deciding whether or not to invoke the P&P Ordinance. Unless it involves significant public interest or no other alternative is available, the Legislative Council should not casually resort to such means. It is certainly not the case that there is no other alternative. The Building Department (BD) handles UBWs. As we can see, the BD has all along handled every complaint about UBWs in accordance with the law. I think it is groundless to accuse the BD of shielding or practicing favoritism. It would be most unfair to the BD colleagues if we agree to form a select committee,

especially as there is no concrete evidence at the present stage. That is tantamount to accusing the BD of unfair handling of the matter.

President, I have handled many complaints about UBWs before. I believe many colleagues would share the same experience in dealing with cases in old districts. If UBWs do not pose immediate dangers, the BD will not take enforcement action immediately. Besides, the BD, even after inspection and find UBWs to be posing dangers or classified as "actionable" items, will consider the facts of each case and the information it has on hand before taking enforcement actions. According to my experience of handling such cases in my district, the varied enforcement time is thus very common and understandable. Even for the same type of illegal structures in a building, the prosecution time may vary from as soon as half a year to as long as three years. Therefore, the BD will consider different case facts and come up with a different enforcement timetable. That is normal and quite common according to my experience. If we think about it carefully, we will find the arrangement for handling UBWs of "senior officials and celebrities" now put forward by the BD indeed already smacks of double standards and special arrangements. Coupled with the great concern shown by this Council and the media, I believe the BD will strictly handle Mr LEUNG Chun-ying's UBWs within a short period of time. We all can wait and see for ourselves.

President, when the Legislative Council debated on the motion of no confidence in the Chief Executive last Wednesday, some colleagues' remarks showed a clear stance on the UBW incident of the Chief Executive. As colleagues holding a clear stance have once again proposed invoking the P&P Ordinance, it makes one very worried that the P&P Ordinance may be used as a political tool to achieve the political outcome of "beheading" the Chief Executive. This is another reason why I am unwilling and would not support invoking the P&P Ordinance.

President, it is undeniable that Mr LEUNG did not handle and respond well to the UBW incident. The public are disappointed and expect Mr LEUNG would learn from mistakes, seriously draw lessons from this experience and work hard. As we can see from the whole incident, Mr LEUNG Chun-ying has already paid a heavy political price for his UBWs. There is really no perfect man in the world. If people can clean up their acts, we should give them an

opportunity. Mr LEUNG has apologized many times to the public for this incident. President, the Chief Executive's UBW scandal has dragged on for nearly half a year in Hong Kong. I very much hope that this would end with a full stop from today onwards. I also wish Mr LEUNG could focus on handling all the deep-seated problems of Hong Kong. I also implore members of the public to give Mr LEUNG a chance to put this matter behind, so that Hong Kong can continue on its path forward.

President, I so submit.

MS EMILY LAU (in Cantonese): President, Ms Starry LEE has closed the file on this incident in four minutes. She really is in a great hurry.

Many members of the public hope that this incident can be dealt with properly and expeditiously. But instead of being dealt with properly and expeditiously, this incident will keep annoying Hong Kong and as a result, many people, including officials, Legislative Council Members and members of the public, cannot focus on other business, so Ms Starry LEE said just now that LEUNG Chun-ying had paid a heavy price for the incident. But some people may think that the price he paid is not heavy at all. Rather, it is our society which has paid a heavy price.

Many people feel very annoyed and infuriated. So, LEE Cheuk-yan's motion today seeks to deal with the great concern of Ms Starry LEE and other members of the public in the hope that society can deal with this incident, which has been annoying Hong Kong, in a most orderly, systematic, impartial, independent and equitable manner, though we are not sure whether it can also be dealt with expeditiously. Just as Ms Starry LEE said earlier, the Chief Executive has really made mistakes and we feel a need to conduct an inquiry.

This is not only a problem of UBWs. President, you have also heard such a statement many times. There is this argument about many people also have UBWs, and it may be necessary to deal with this problem. But the way of dealing with it will not be a sudden amnesty to all unauthorized structures as mentioned by Dr Priscilla LEUNG when she asked the Chief Executive the other day whether it would be necessary to deal with this problem. This is not

feasible. Certainly, neither will it be dealt with in the same way as suggested by Dr CHIANG Lai-wan, that is, to sell the Houses and close the file. This is not a good idea either.

Is Mr LEE Cheuk-yan's motion a possible option when no other options can be identified as Ms Starry LEE said just now? Or, is there no other alternative at all? The answer is in the negative. However, it is a desirable option of dealing with it by requiring the relevant parties to come to the Legislative Council. In the past, we had invoked the Legislative Council (Powers and Privileges) Ordinance a number of times to inquire into various incidents. Such an approach is considered highly credible and acceptable by the people, who believe that the Legislative Council will conduct an inquiry in a fair and impartial manner. Therefore, the motion proposed by Mr LEE Cheuk-yan today is fully justified and should also be a desirable option.

As Mr LEE Cheuk-yan said earlier, only an inquiry will be conducted and we have no preconceived position. We have to conduct an inquiry because there are a host of problems which are annoying us, preventing Hong Kong from moving forward because the discussion on the housing problem involves UBWs, and the discussion on education issues also involves UBWs. It seems that everything involves UBWs, thus preventing us from focusing our attention. I understand Members' point that the inquiry is purely an inquiry. If only LEUNG Chun-ying would be investigated, the others should not be too nervous. The important point is that this Council will not investigate civil servants and the Buildings Department (BD) they certainly do not like to be investigated, which is fully understandable.

But regarding the performance of civil servants, AU Choi-kai, Director of Buildings, should be scolded by the people, and the media is even infuriated by him. After the incident was exposed for several days, many reporters were waiting outside his office every day. But he did not come out. Four or five days later, he came out from his office without notifying the media on 29 November. No one knows from which high-ranking official he has learnt of such a practice. Further, he has only selected a number of electronic media. Those who were present were lucky enough to be able to report the story. But for the other media, they did not know that he would come out from his office. When being asked why he did not give notice, he said that the media should be waiting for him all day. He even asked the media in return why they did not

wait for him, and why they did not know that he would come out. What is the first sentence he uttered in front of the media? He said, "You have had a hard time with your work. Today, I have come out to express our dissatisfaction on behalf of the colleagues of the BD." This is actually a case of "he who offends is always the first to complain". Although the media had been waiting for him for many days in order to hear his explanation, he expressed dissatisfaction after coming out from his office. Why did he express dissatisfaction? He said that his colleagues had been maligned because some reports criticized them for having shielded the property owner (LEUNG Chun-ying), while some other reports alleged that they had failed to deal with the incident in an impartial manner. He said he had to declare in a solemn manner that "it is absolutely not the case". He then walked away after uttering a few words including the remark that he was not holding a press conference. President, this happened on 29 November.

What happened on the following day (30 November)? The press release read out by Secretary Paul CHAN just now was published. It was a press release by the BD Local Building Surveyors' Association, in which they said that they had to come forth and speak out because, as the Secretary read out just now, the BD colleagues felt that the criticism in society had caused great distress to them and they wished to make a response and clarification. Although the Director had come forth to state their position on the previous day, they still had to come forth and speak out. They expressed support for the Department in giving a clear and accurate explanation on the law-enforcement guidelines with a view to allaying public concerns. Further, the public could make fair and impartial comments on the basis of facts instead of speculation or inference. They also expressed their commitment to upholding professional conduct and would not tolerate the so-called shielding or oppression. Certainly, they also said that it is not the Department which had asked them to come forth and speak out.

After hearing the staff's account, I proposed setting up a select committee on the basis of this letter at the House Committee meeting of 7 December. After having provided me with a copy of this letter at my request, they also sent a copy to all Members. After I had put forth my suggestion, some Members said that on the ground of what they said, it was pretty clear that they wished to set up a select committee. Members also thought that this would gain the union's support. However, the union immediately wrote to us, saying that they had

never expressed any wish for setting up a select committee. They came forth to speak of their own accord and the Department had not played any role. They added that they had never been instructed or subjected to the pressure of the Department. I am not a unionist, but Mr LEE Cheuk-yan is. He knew what had happened after reading between the lines of all the statements.

Certainly, some civil servants do not like to be questioned in front of the Legislative Council. I also understand that. President, you have also heard what SHIU Sin-por told the Government of the United States. He said the Bureau Directors under the accountability system — formerly they were civil servants — were so frightened that they broke into tears before they had to testify in front of the Legislative Council. President, I have no idea whether this is true as I have never heard of this before. If civil servants feel frightened, I can understand it. But this time around, the civil servants are infuriated as they feel being maligned. Have they been maligned by the Legislative Council, the media or someone else? Should the authorities, especially the leadership, find an opportunity to clarify the incident as a whole? I believe the civil servants feel aggrieved because to date, no one, including the Bureau Director, Secretary of Department and the Director of Buildings, has clarified the matter on their behalf.

Though they feel aggrieved, some of them really feel infuriated at the BD. Just now, many Honourable colleagues mentioned the BD's investigation of LEUNG Chun-ying's mansion in Stanley. Frankly, it is really unacceptable as 12 years have passed. Back then, it was 19 January 2001. The press release in my hand was published by the BD on 14 December 2012 concerning the press releases that were published by the Department 12 years ago. Is this unacceptable?

Why did the BD have to publish those press releases anew? It is because many people think that the BD failed to give a clear account of what it had done back then. As mentioned by an Honourable colleague, after inspection, the BD found some beams, some columns, some walls and some staircases back then. President, have you ever read the articles about this incident written by NG Chi-sum? He said that after listening to the description of the BD, people may think that it has found some historic sites like the terracotta army, or monuments such as columns and walls that both you and I would like to see overseas. NG Chi-sum is not kidding. But everyone will say: Is the BD kidding?

The BD has so much power that it remains reluctant to disclose what was found during the inspection conducted 12 years ago. It simply said that nothing had been found. It added that it had no idea of the size or purpose of the structure, apart from saying that a column and a wall were seen here and there. Frankly, it is really most desirable to describe it as a historic relic. Furthermore, many people are still asking who has built those monuments. Are those walls and columns built by LEUNG Chun-ying or the previous property owners? No one has come forth to give a clear account, why? Certainly, any answer to this question will lead to further queries. For instance, why were the unauthorized structures built? Did the buyer, after purchasing the property, ask a friend, who remains anonymous, to verify the structure? President, such questions are not frivolous at all. Rather, the public need to know the answers or else more lies will be told and we will feel cheated. So, if any staff of the BD have heard our discussion, I hope they can come forth to respond. How can the two press releases be regarded as an explanation?

President, I have also read a more sensational report, which suggested that back then the staff of the BD had entered the secret room (that is, the columns and walls) to take photographs. Although these photographs have never been disclosed and no one is willing to utter a word, someone has written something about them. President, what does this mean? As those who know the inside story are not all dead, why is information released bit by bit? I very much hope that there will be a perfect opportunity for us to require all parties concerned to tell us the whole truth in an orderly, open and fair manner. The Secretary seems to be always saying that he wishes to give a comprehensive account of the incident. But whenever he has done so, no one feels satisfied. On the contrary, people only find that he has talked haltingly and hesitantly, trying to conceal something else.

I feel miserable for Hong Kong. Further, there is this ZHANG Xiaoming now. I really do not know how he will finish us off. If we think that the supreme leader of a place has some very basic problem, the Legislative Council and the community as a whole should deal with it. Mr LEE Cheuk-yan's motion seeks to set up a select committee — Frankly, whenever a select committee is set up, the royalists account for the majority of its members — so that questions raised by me just now and many other people will be answered clearly in the inquiry. We will then know how many lies LEUNG Chun-ying has told to cover up his previous lies, and whether some officials have really brazenly

shielded him and practised favoritism towards him. President, you have heard Mainland officials say on many occasions that they attach great importance to the system of Hong Kong as they appreciate that our system is sound, clean, efficient and credible. We do not wish to see LEUNG Chun-ying's clique destroy the competitive edges of Hong Kong. Therefore, what we have to do is to restore public confidence, including the confidence of the international community, in the SAR.

Therefore, I hope that Honourable colleagues will support Mr LEE's motion. I so submit.

MS CYD HO (in Cantonese): President, I speak in support of Mr LEE Cheuk-yan's motion which seeks to appoint a select committee to inquire into the UBWs in the mansion of the incumbent Chief Executive and his way of handling the UBWs by invoking the powers conferred by the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance).

Just now, Ms Starry LEE queried whether the P&P Ordinance has become a political tool employed to force LEUNG Chun-ying to step down. If we look at the matter from the opposite perspective, however, are those who refuse to appoint a select committee under the P&P Ordinance not resorting to a political tactic? The purpose of such a political tactic is to preserve LEUNG Chun-ying so that he can cling to his office as Chief Executive and continue his administration although he has violated the law knowingly and told a lot of lies. This is also a kind of politics which goes against the public interest.

As mentioned by Mr Martin LIAO earlier, the powers conferred by the P&P Ordinance are substantial and subject to no restraint. Thus, it should be exercised only when public interest is involved. Here, I have to clarify that the powers conferred by the P&P Ordinance simply enable us, with the consent of the President and the Legislative Council, to order witnesses to attend our meetings and produce documents, books or records. This is not a criminal investigation process. In fact, the powers that we can exercise are very limited. We can only exercise the power of summoning witnesses and requiring them to attend public hearings at the Legislative Council to be broadcast by the media in order to answer questions by Members and produce relevant documents. Even if they do not produce the documents, the Legislative Council does not have any power —

and will not — to enter their offices or residences to conduct a search. Such power belongs to the police and only such power is regarded as substantial.

We do not have such substantial powers. We can only, by means of correspondence, demand the witnesses to submit documents in a polite manner. Furthermore, such power is subject to restraint. Under section 13 of the P&P Ordinance concerning objection to answering questions or producing papers, a person may be excused the production of any paper, book, record or document or the answering of any question if any such paper, book, record or document required by the Legislative Council is of a private nature and does not affect the subject of inquiry. Even though a select committee has been appointed, we have to put questions and demand the production of relevant documents on the basis of the terms of reference initially determined, which is relevant to the public interest, instead of interrogating witnesses by putting far-fetched questions. Therefore, the select committee is subject to restraints. Certainly, in exercising this power, we must be accountable to the citizens and hearings are held on the premise of serving the public interest.

Mr Martin LIAO has cited a number of examples including the new airport incident, the substandard piling works scandal and Lehman Brothers incident. Surely, all these involve the public interest. But I do not understand why the inquiry into the appointment of LEUNG Chin-man by the New World China Land Limited (NWCL) is omitted by Mr LIAO. We did have set up a select committee on this incident to investigate whether there was any corruption, and whether there was any deferred benefit to be received by officials in exercising their powers. So, I wonder why this select committee, which is responsible for investigating such an important incident relating to corruption, is omitted.

Some Honorable Members have also pointed out that no practical result can be attained even though the investigation is completed. Of course, we do not have the powers to conduct criminal investigation or the powers of courts to mete out sentences. Nor can we impose fines or imprisonment terms as the executive authorities do because these are not the Legislative Council's duties. In the report compiled by the Legislative Council after the inquiry, we will tell people the truth and make recommendations. In the past, an inquiry into the handling of the SARS epidemic by the SAR Government was held. In the report compiled by us after the investigation, recommendations were made in respect of how the epidemic was controlled and how the epidemic was handled by hospitals.

And many of our recommendations have been accepted by the authorities. Hence, additional isolation wards are provided in hospitals and the Hospital Authority has put in place a warning system of various alert levels.

In the report of inquiry into the appointment of LEUNG Chin-man by the NWCL, recommendations concerning regulating the post-service employment of civil servants were made and accepted by the Government. Since then, the sanitization period for civil servants who have left the service has been extended. The concrete result was that LEUNG Chin-man could not accept the appointment by the NWCL due to enormous public pressure. It is also due to the fact that all the facts have been set out in the report by the Select Committee.

Therefore, although the powers conferred by the P&P Ordinance do not aim at imposing specific sanctions on the offenders, the effect is that the parties concerned will be subject to tremendous pressure, apart from bringing substantive changes to governance and measures in future. And these changes are positive. Certainly, if the powers are not properly exercised, the result will be undesirable. Early this year, the inquiry into the incident concerning whether LEUNG Chun-ying, who was not yet elected as Chief Executive, has any conflict of interest in the West Kowloon Cultural District Design Competition is an example of such powers being not properly exercised.

At the time when the select committee was set up, LEUNG Chun-ying had not yet been elected as Chief Executive. He won the election afterwards. I was also a member of this select committee. According to my observation, members of the select committee, who wished to pursue the case initially, had exercised self-restraint by imposing restrictions on themselves. One of the factors contributing to the unsuccessful result of the select committee is that powers are not exercised properly. But the entire hearing process has also allowed us to see that LEUNG Chun-ying's "goal posts" span a very small and narrow space. According to his definition, there will never be any conflict of interest unless he is caught red-handed, meaning that corruption can only be established if a sum of bribe money is found in his account. We can see from the entire process that LEUNG Chun-ying has tried to play down the possibility of conflict of interest and deferred benefit. But this does not live up to public expectations of public officers.

This time around, the subject of investigation is the integrity of the parties concerned. It is a subjective judgment on whether a person is devoid of integrity on the basis of his outrageous acts. But the purpose of setting up a select committee is to find out the objective facts, that is, the seriousness of the lies told by LEUNG Chun-ying. The general public has forged a consensus that LEUNG Chun-ying has lied. No matter what he said or how evasive he is in answering our questions, he has left the indelible impression on the people that he has lied and a conclusion will be drawn by the people. Nevertheless, we have to find out the difference between what he said and the actual facts, and how many times he has lied.

When he told us in his reply that it was the first time he dealt with unauthorized structures at his residence on the Peak, it was exposed that he had had experience in handling the unauthorized structures at his residence in Stanley more than a decade ago. So, does "the first time" mentioned by LEUNG Chun-ying refer to "the first time" in 2012 or "the first time" in June 2012?

We really want to know whether the Chief Executive tends to "playing around with words" or is addicted to "hypocritical rhetoric". As the daily life of Hong Kong people is affected by his governance, we have the right to know. It can be anticipated that even if Mr LEUNG comes here and answers our questions again, he will keep repeating his own script. But occasionally, he will lie once more when under pressure, such as in the last Question and Answer Session when he asserted in public that he had never said that he did not have any UBWs.

One will find oneself most at ease to say something based on facts in public as he will also find himself most capable of telling consistent stories. If we do not have the need to cover up the truth and do not have the intention to deceive the public, and tell the whole truth according to our most vivid memory, our remarks on each and every occasion will naturally be consistent.

On the contrary, if a person intends to hide the truth or tell different stories when under pressure, the public will ultimately realize the inconsistencies and contradictions, and they will know that this person has tried to deceive the public instead of telling the truth. This time around, we need to know whether civil servants have practiced favouritism due to pressure. We hope that our civil servants are still clean, impartial and independent when performing duties.

However, after the establishment of SAR, it is not something new that they are subject to political pressure.

I believe some civil servants also hope that the Legislative Council can set up a select committee so that they can tell the truth on oath and submit documents after being summoned under the select committee's powers to summon witnesses. In that case, they will feel that they are subject to no pressure. We hope that we will find out from these documents whether the Chief Executive has told us the whole truth every time, or, in his own wordings, according to his full knowledge.

Deception, connivance, perverted justice and practice of favoritism are the roots of corruption. Corruption does not only mean offering bribes. To carry out UBWs in order to get more usable floor area is an act of corruption which reflects greed. If a person attacks and utterly discredits his opponent for UBWs in order to be elected as Chief Executive though he himself has also committed such an offence, this is also a kind of greed — a greed for powers and status.

Today, the purpose of voting is not merely to indicate our support or opposition to the appointment of a select committee by the Legislative Council. More importantly, Members of all political parties and groupings in this Council have to use their votes to tell the people whether they allow for such tolerance and indulgence of evildoers according to their bottom line in respect of a situation where right and wrong are being confounded.

Thank you, President.

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

DR PRISCILLA LEUNG (in Cantonese): President, four large-scale select committees were set up by the Legislative Council of the last term, including the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products, Select Committee to Inquire into Matters Relating to the Post-service Work of Mr LEUNG Chin-man, 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, and the Investigation Committee established under Rule 49B(2A) of the Rules of

Procedure in respect of the Motion to censure Honourable KAM Nai-wai. And I have participated in three of them.

Just now, a colleague said that the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) was not invoked by the Investigation Committee established under Rule 49B(2A) of the Rules of Procedure in respect of the Motion to censure Honourable KAM Nai-wai. To my memory, we had a heated debate on this subject in this parliamentary assembly. However, only Members of the pro-establishment camp participated in this committee, although the final conclusion is that Mr KAM Nai-wai has made inconsistent remarks. But the objective fact is, as we can see it, the Committee has unanimously agreed that the P&P Ordinance should not be invoked to conduct an investigation. Therefore, no application for invoking the P&P Ordinance was made at the Council meeting of the Legislative Council.

The investigation by the Subcommittee to Study Issues Arising from Lehman Brothers-related Minibonds and Structured Financial Products set up under the P&P Ordinance has lasted for four years. 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 was set up during the Chief Executive Election. Back then, I personally had great reservations about the setting up of this select committee because the inquiry had to be completed hurriedly in a few months. At the final stage, although we wanted to discuss how to improve these large-scale competitions in order to prevent recurrence of similar incidents, we did not have any time. So, I think we have had a lot of experience in the setting up of select committees by invoking the P&P Ordinance in the last term.

Should we invoke the P&P Ordinance to conduct an inquiry this time around? On the basis of some basic information, I have made some observations as follows. First, basically, the incidents that have aroused our suspicion and criticism happened prior to the assumption of office by the Chief Executive; second, to my memory, after the Chief Executive had made a 10-odd-page written statement, I heard from a radio programme which allowed the public to express their views on the written statement that the public considered something missing in the statement, that is, an apology. I remember the Chief Executive offered an apology in public again that night. In fact, I remember he offered apologies on an occasion before publishing his written

statement, only that we thought he should at least offer an apology in writing or let the community see him offer apology in a sincere manner.

Later, we invited him to the Legislative Council to give an explanation. I think he had really given a full response and apology for the UBWs on that day. But I still think that he should have done better. In other words, regardless of whether the unauthorized structures were built before or after he has assumed office, he should unconditionally offer an apology to all those who are involved in the incident, the public, and even his colleagues. But as a professional and due to the limitations of a professional, he has to argue for himself point by point.

However, do we accept his apology? As we can hear in today's debate, some Members accept it, but some do not. To me, as he has offered apologies on many occasions for a series of incidents involving UBWs before he took office, I think it is acceptable.

The problem of UBWs has dragged on and on for more than a year. It should have reached the peak because it involves the incumbent Chief Executive. Last year, a number of Legislative Council Members and senior officials were involved in the problem of UBWs. Speaking of the problem of UBWs, many people are pointing one finger at others while pointing the rest four at themselves. Many Honourable colleagues of the Legislative Council involved in UBWs have even indicated that they do not want to remove these structures.

Just now and on previous occasions, Ms Emily LAU mentioned that I have suggested to the Chief Executive a blanket amnesty for unauthorized structures. Her remark is a distortion of my words. On many public occasions and even in a television programme, I said I hoped that in June, I asked the Chief Executive to set up an expert committee comprising members with knowledge of UBWs or representatives from various professional sectors, including representatives of political parties, and especially the representatives of the urban areas and the New Territories, so that the problem of UBWs which had been piling up in Hong Kong could be classified one by one with a view to finding a solution in future. I did not say that I had asked the Chief Executive for a blanket amnesty. That is a total distortion of my words.

Last time when she mentioned this, I did not respond because the discussion was already over. But this time around, she repeated it. I hope she

can listen to the audio recording, or review the television programme in which I have spoken on the setting up of this expert committee with representativeness. After putting forward this proposal, I have received a lot of views from people living in the urban areas and the New Territories. I put forth this proposal after having received a lot of cases of seeking assistance. In my opinion, the problem should be addressed in a more reasonable manner by taking into account of the public sentiments in the long run. In doing so, we can pre-empt a situation where people who do not understand the issue will come forth and ask whether to hammer a nail at home is also regarded as UBWs. At present, the Buildings Department (BD) would issue removal orders regardless of the gravity of the problem. Even people living in the urban areas have received such orders which have caused disturbance to their original daily life. In view of this, I have put forth this long-term solution for the authorities' consideration. But I have not requested a blanket amnesty for UBWs. My words have been unreasonably distorted.

Besides, what I wish to say is that, according to my recollection, Mr Abraham SHEK was in a very high profile during the discussion on whether a select committee should be appointed to inquire into the West Kowloon Reclamation Concept Plan Competition. Therefore, when everyone was debating last week on the motion on "Vote of no confidence in the Chief Executive", I listened carefully to his speech. I had no idea what Mr Abraham SHEK was going to say, nor was I sure he was in favour of or against the motion. I have never had any direct discussion with him in this regard. However, his speech was most touching to me. He raised two points. He said, firstly, he should be the first person to come forth if CY was the target to put down. It was because there were discrepancies among their political platforms. I heard him criticize the Special Stamp Duty in a radio programme this morning. He said he would continue disagreeing to the Government's policy. Secondly, he said that if CY had to step down because of the incident of UBWs, judging from the political perspective and according to his knowledge of the so-called UBWs at that time, it would be He is very much well-versed in the topic. Since he spoke in English, I listened very carefully. I think he has fully reflected the fact that although there were different political views, we should be politically broad-minded.

After listening to his speech, I came to realize Mr Abraham SHEK's view on this incident. Why do I have to cite him as an example? Because we had an

argument when he proposed to appoint a select committee to study the incident involving the West Kowloon Reclamation Concept Plan Competition. I did not agree to the proposal of appointing a select committee during the Chief Executive Election. I even disagreed to conducting an inquiry by invoking the P&P Ordinance to achieve any purpose in connection with the election. Ms LI Fung-ying and I had a very strong opinion in this regard.

Today, we have our Chief Executive elected through legally prescribed procedures. It is universally true to say that no politicians, Legislative Council Members or government officials are perfect. The point is that the mistake was committed long before he took office, not to mention the fact that he has apologized on numerous occasions. Can we just put the whole thing down?

Since the Chief Executive has made numerous apologies, I think it is time for the Chief Executive himself, the BD and Development Bureau officials who are responsible for dealing with UBWs to move. The authorities have issued many removal orders requiring many people to demolish unauthorized structures of varied scale. They have been warned of possible enforcement action for non-compliance. But can we defuse these leftover political bombs in the long run? It does not simply involve an individual's problem. We should perhaps ask ourselves an honest question: Do we have any unauthorized structures at home? I do not know what the answer will be.

The Hong Kong society we now live in is full of rage and there is a lack of forgiveness. Very often, we tend to create "bombs" by turning bad things even worse. We sometimes make a real mountain out of a molehill. But when it comes to a real mountain, we cannot spare time to handle it. We need to reduce major issues to minor ones, but can we bring this mentality back into this Council? It is normal to have different political views in this Council because we all have our own cup of tea in mind. Most of us may have been upset the moment CY was elected because he was not their pick. However, the fact is that he has been elected. In this circumstance, should we go on forever with his unauthorized structures that were built prior to his taking of office? At this juncture, should we all reflect upon ourselves?

Notwithstanding our different political views in the Legislative Council, we can set aside our differences for the overall interest of Hong Kong with the help

of our successful experiences. If he has any other problem in the future, we can always bring it up for discussion. In the past, Members of the pro-establishment camp agreed to inquire into Mr LEUNG Chin-man's case as well as Lehman Brothers' case by invoking the P&P Ordinance. Most Members supported the investigations conducted under the Ordinance because the cases were very clear-cut. As a Member of the relevant committees, I have to make myself clear. The appointment of a select committee to inquire into the West Kowloon Reclamation Concept Plan Competition already aroused a great controversy. As a matter of fact, the P&P Ordinance was not invoked when investigating Mr KAM Nai-wai's case.

Experience from the last term gives me an impression that Members who have not participated in any select committee will be more delighted to invoke the power of the P&P Ordinance to inquire into issues that they are dissatisfied with. However, with the experience from the last term, my personal judgment is that it is inappropriate to invoke the Ordinance because the problem currently under discussion happened before the Chief Executive took office. It is neither the main theme of this Council to invoke the Ordinance to inquire into the Chief Executive after he has taken office. Hence, I urge Members to stop tangling with this issue. Why do we not consider this point: What can we do to make the Government listen to the real opinions of the public if the policy agenda of the Government of the new term fails to live up to our expectations? It is not right to remain tangled up in this issue and make no achievement.

For the reasons mentioned, I oppose today's motion. President, I so submit.

MR LEUNG KWOK-HUNG (in Cantonese): President, after listening to Dr Priscilla LEUNG's speech, I really find it most laughable, for it is a classic example of not distinguishing right from wrong. Whether or not LEUNG Chun-ying has any UBWs is pretty clear, though it is still uncertain if he had gone from one lie to another, thus getting himself into even greater trouble. This is the subject of our current discussion, so how is it related to whether or not concerted action have been taken by the Legislative Council? This Council is supposed to clarify the accusations currently faced by the Chief Executive. We

should ask him to resign if dereliction of duty on his part is ascertained. This is what we are supposed to do.

Now, we have exhausted our words and Members have nothing more to say. Let me crack a joke so that we can look at this matter from another angle. My mother used to complain and say, "Those who kill and set fires get gold belts; those who build bridges and roads perish without a trace." Looking at the national circumstances from her perspective reminds me of two very familiar persons, namely LIU Xiaobo and LEUNG Chun-ying. What can I say about their present situation? For LEUNG Chun-ying, he is "deceiving his superiors and deluding his subordinates". As for LIU Xiaobo, he is "locked up in jail for championing the people's cause". One of them just told the truth and, whether you like it or not, read out the Charter 08 to let you know how many people are supporting me. The other one was deceiving his superiors and deluding his subordinates, which could be described as an act of a "bastard". It is because it was already very bad for someone to deceive one party, but he had even deceived both parties. Was it fair that I am not allowed to talk about LIU Xiaobo here? As I have already said a few words about him, it does not matter anymore. Otherwise, the President will have to make a ruling later on. There is no point for me to elaborate.

Another point I wish to raise is that lies may lead to consequences of different degrees of gravity. President, you have met my god-daughter before. She is very young. One day, she and her friends asked me, "Uncle Long Hair, why did you appear on the television so often?" I smiled and told her that it was because I lived inside the television and I also invited her to come visit me when she was free. As a result, she nearly broke the television set as she really hit it while yelling to ask me to come out. In the end, I apologized to the kids that I had really gone too far in cracking such a joke. I told them that I actually lived in Kowloon Bay, not inside the television set.

I have to apologize to small kids for telling such a lie to make it clear that it was a bad joke. Although LEUNG Chun-ying is not the ruler of a country, he is the head of a place. Should he apologize for getting the Chief Executive post by cheating? I have no idea what Dr Priscilla LEUNG was talking about. We are now talking about integrity because LEUNG Chun-ying, whom she supports, has got the Chief Executive post with his remark that "this is not only a problem of UBWs, but a problem of integrity". Why could he point at his rival with one

finger and at himself with four others? We are now talking about integrity, not UBWs. Honestly, it was really strange that the President did not rule that she had strayed from the subject though she kept on talking about UBWs. It does not matter anymore, but we are really talking about integrity, though she was talking about UBWs.

There is a saying that "if the people have no faith in their rulers, there is no standing for the state". Where does it come from? *The Analects·Yan Yuan* reads, "Zi Gong asked about government. The Master said, 'The requisites of government are that there be sufficiency of food, sufficiency of military equipment, and the confidence of the people in their ruler.' Zi Gong said, 'If it cannot be helped, and one of these must be dispensed with, which of the three should be foregone first?' 'The military equipment (meaning not to dispatch troops for battle),' said the Master. Zi Gong again asked, 'If it cannot be helped, and one of the remaining two must be dispensed with, which of them should be foregone?' The Master answered, 'Part with the food. From of old, death has been the lot of an men; but if the people have no faith in their rulers, there is no standing for the state.⁴" The reply given by the Master was, "From of old, death has been the lot of an men; but if the people have no faith in their rulers, there is no standing for the state." This means that even though food and military equipment are essential to a state, there must also be credibility and integrity. If we must choose one out of the three, it must be integrity, because a state without integrity, or a state allowing its people to learn telling lies, is useless. This is our emphasis here today.

Although I have often been criticized for setting bad examples for small kids, I have to teach them properly today by quoting some of the key Mencius teachings, "that the feeling of commiseration is essential to man, that the feeling of shame and dislike is essential to man, that the feeling of modesty and complaisance is essential to man, and that the feeling of approving and disapproving is essential to man. The feeling of commiseration is the principle of benevolence. The feeling of shame and dislike is the principle of righteousness. The feeling of modesty and complaisance is the principle of propriety. The feeling of approving and disapproving is the principle of knowledge⁵." LEUNG Chun-ying can be described as a man devoid of any of

⁴ <<http://ctext.org/analects/yan-yuan/zh?en=on>>

⁵ <<http://ctext.org/mengzi/zh>>

these virtues. Having no feeling of commiseration, he sticks to his own self-esteem, threatening that he will do nothing at all if his so-called policy of benevolence, which is a *de facto* harsh policy, is not passed. What is more, neither will there be a pay back nor retrospective effect. All Members of the Legislative Council will become sinners if the policy of benevolence, in his words, is not passed by this Council. Obviously, he lacks the feeling of commiseration, for not even a cent will be given away.

His lack of the feeling of shame and dislike is even more obvious. When he was accused of lying, he would change the subject as Dr Priscilla LEUNG did, claiming that he was talking about UBWs not integrity. He would also make excuses that he could have done better or he had no idea. Who will do anything like this? If he were in court, he would definitely be chided by the judge as a dishonest witness.

It has become quite apparent that he lacks the feeling of modesty and complaisance. Although he knows very well that his crimes are inexcusable and he should take the blame and step down to manifest credibility and major policies and what little logic left of a coterie election, he lacks the feeling of modesty and complaisance. He knows very well that he will become a burden for the Communist Party of China (CPC) and that it has picked a wrong candidate, he wants us to believe in a lie similar to the one told by TUNG Chee-hwa, though there is no way for us to find out whether he stepped down because he had a leg pain or he was heart-broken.

Naturally, he lacks the feeling of approving and disapproving, too. Talking about the integrity problem, and given the various queries, we must bear in mind that he was already a professional when he bought his home in 1999 and knew how to deal with the problem with his residence in Stanley without consulting others in 2000. Back in 1999, however, he was unable to identify any problems even though he was already a professional. In 2011, it suddenly transpired that he did not need to rely on professionals. In fact, he was simply seeking to pass his responsibility to them. Sometimes, he would claim himself to be a professional but then he would suddenly say he was not up to the professional standard. O professional! O professional! What crimes are committed in thy name! He should not insult the professionals in this manner. By the word "professional", it means not only the knowledge of certain matters in a certain field, but also the insistence on integrity.

President, I believe you also know that doctors have to abide by certain principles, and so do lawyers and architects. Being a surveyor himself, he turns out to have cheated Hong Kong people in this manner. What happened in 2011? The answer is identifying inadequacies. All Members of the Executive Council and senior government officials were requested by Donald TSANG to find out if there were UBWs at their homes, and yet LEUNG Chun-ying did not find anything. Later, he suddenly identified some UBWs but still he did not consult any professionals. On the contrary, he applied his own professional expertise and built a wall to seal off the UBWs. As a result, we have this mathematical problem of "one plus one equals zero". What sort of integrity is this? Not only are his words inconsistent, he has also gone from one lie to another. In the end, there is a pack of lies. He has now become a superb liar, but still he has the support of so many Members in this Council. How inconceivable!

In fact, LEUNG Chun-ying has manifested the 10 Commandments in the *Bible*. What is the 11th Commandment? It refers to someone who will not be caught red-handed even after breaking the 10 Commandments. Though he wished to break the 11th Commandment, he did not succeed and ended up being caught red-handed. What is the 12th Commandment? It refers to someone who refuses to confess despite being caught red-handed. Likewise, he did not succeed even though he attempted to do so. According to the 13th Commandment, when people accuse one another, one has to call the other party an ill-intentioned evil. He should defend himself by saying he did not make such mistakes and even if he did, he should not be taken as breaking the 10 Commandments. Buddy, he has even broken the 13th Commandment — not to be caught red-handed; refuses to confess even if caught red-handed; call the other party an ill-intentioned evil even if there is no way for him to deny. He is really an excellent CPC member, for he is following every step closely.

Chairman, speaking of CPC members, he has made some mistakes because the Chairman — I am referring to Chairman MAO, not you, President — once advised people to be modest, prudent, free from arrogance and rashness in their style of work and serve the people of China wholeheartedly. However, he is arrogant and rash in his style of work. We have requested him to come before this Council to give us an explanation because according to the Basic Law, only the Legislative Council can monitor him. President, you have once stated in an interview by RoadShow that the Legislative Council's sole power was to monitor

the Government. I have watched the interview and found your point perfectly correct. We merely asked him to come before this Council so that we can make some effort in monitoring him, but still he refused. It seemed that we were begging him, and he treated us like his concubines. When he finally appeared before this Council as requested, he chose to keep telling lies and putting on a show.

"Seriousness" is the most dreadful word in the world. According to a solemn pledge by Chairman MAO, what CPC members emphasize most is "seriousness". Buddy, he should at least be considered an "indigenous communist" or "underground communist". This communist teaching is shared by the *Bible*, *Mengzi*, *The Analects* and the CPC, right? Did the CPC also say in its declaration that "we are not afraid of disclosing our goal"? Therefore, self-respect is crucial. However, before I hurled an article at him, he said right here where you are now that "our policies will be rolled out one after another" and "our plans will be finalized one after another". What has happened now? Now, his scandals have been exposed "one after another" like the "breaking of rotten eggs one after another".

So, what can be done? If a leader sets a bad example, it will be followed by his subordinates. In fact, the team members recruited by him have also regarded his behaviour as a bad example. Furthermore, if Members have followed the news stories since June, they would have found the Chief Executive a professional liar. Is there anything MAK Chai-kwong and the one whose "greatest strength is fertilizing with shit" or "lam fan jui keung"⁶ should be afraid of? After all, even the Chief Executive is in dereliction of duty. How can he demonstrate leadership, so to speak? As Dr Priscilla LEUNG has said, he is pointing at others with one finger but at himself with four fingers. So, how can he convince the public?

If LEUNG Chun-ying advises Franklin LAM, MAK Chai-kwong or even "bo bo"⁷ — I wonder if he has gone for a drink — not to drink drive or operate

⁶ The Cantonese pronunciation of "lam fan jui keung" is close to the Cantonese pronunciation of LAM Fan-keung, a Member of the Executive Council.

⁷ The speaker was referring to Paul CHAN, Secretary for Development.

"sub-divided units", they might as well say, "Chief Executive, is there anything wrong with you? How come you can lie openly but we are not allowed to lie to you in hiding?" This is dereliction of duty on his part because he is no longer able to perform his duties. Should a person who is unable to perform his duties because he has gone from one lie to another not to be subject to an inquiry? Despite my doubts, I have already had mercy on him by not impeaching him, for I have merely called for an inquiry.

Dr Priscilla LEUNG's remark that the incident took place before LEUNG Chun-ying taking office as Chief Executive is most laughable. If her argument holds water, NIXON should not have been impeached, for the "Watergate" incident occurred a very long time ago. Moreover, NIXON showed only little concern for it after he had taken office. He got himself into serious trouble just because he mistakenly recorded his own telephone conversation instead of the one with KISSINGER. Fortunately, you are not a Senator or Congressman in the United States, or else you will have got killed anytime for making such remarks in the United States where it is commonplace for a man to carry guns out in the streets!

Is there any need for an impeachment procedure in this world if this argument holds water? If what is done today is regarded as nothing tomorrow, Chief Executive LEUNG Chun-ying should really recruit you to be one of his cabinet members. This is what Chief Executive LEUNG Chun-ying is doing at the moment. As if what is done today is regarded as nothing tomorrow, a person who is killed today will have his body destroyed the same day, and nothing will be left tomorrow after all the traces have been obliterated. How come there can be such logic in this world! Integrity is eternal. It is only because of the requirements of law and coupled with a very special impeachment procedure that compliance with the law and time limits are emphasized. A politician with real integrity has to step down so long as he is not trusted by one person, because he will cause everyone to suffer due to party politics.

What is most deplorable at the moment? The answer is that there is nothing we can do even though we know it very well that the Chief Executive is causing Hong Kong to suffer, telling lies, doing whatever he wants and going from one lie to another because our great, bright and correct CPC has been cheated by him. There is no way for our great and bright CPC to admit its

mistakes. Neither can it concede that the coterie election which has its consent and steadfast support is wrong for the sake of owning up to its mistakes. As a result, it can only conceal a foul smell with another. The proposal of 85 000 put forward by TUNG Chee-hwa, who was chosen in a coterie election, was considered non-existent since it had not been mentioned again. He eventually left because of his failure to enact legislation on Article 23. Then came "covetous TSANG" who was allowed to savour shark's fins soup at the cost of a bowl of Braised Beef Brisket and rent a luxury apartment at the cost of an average flat. However, he was allowed to make a full retreat. As the saying goes, like "a newly wed daughter-in-law and a newborn baby", LEUNG Chun-ying has stirred up all this trouble since the very beginning but still insisted that there is no need for an inquiry. Let him do whatever he wants! President, do you know that using the arrow-cutting approach of the Thick Black Theory to cut the exposed part of an arrow will lead to abscess held up in the body? (*The buzzer sounded*)

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

MR LEUNG KWOK-HUNG (in Cantonese): the arrow-cutting approach can be fatal.

MR JEFFREY LAM (in Cantonese): Both members of the public and the media are concerned about the incident involving UBWs at the residence of the Chief Executive, Mr LEUNG Chun-ying, which has been lingering on for months. Last Monday, the Chief Executive appeared, upon invitation, before the Legislative Council to take questions from Members regarding the incident and answered some relevant questions. According to his comments, he has accounted for the incident in an upfront and honest manner and admitted his negligence and failure to give a clear account of handling the incident. He has also twice tendered a solemn apology to members of the public for the pressure and disturbance he has caused to the Civil Service.

President, I understand that some people still have doubts about and misunderstanding of this incident and believe that the Chief Executive has made some minor mistakes in the incident. After his admission of failings and

apologies, he should work twice as hard with stamina and diligence to regain the trust of people with his pledge of strong governance.

President, in the debate on a motion of no confidence at the Council meeting last Wednesday, various parties and groupings already expressed their views and stances quite clearly. Do we have to discuss this issue weekly at our Council meeting? Why do we not spend more time discussing more social and livelihood policies, and will doing so not be more beneficial to the people of Hong Kong?

Regarding the motion moved today by Mr LEE Cheuk-yan for this Council to appoint a select committee to inquire into the incident involving UBWs at the residence of Mr LEUNG Chun-ying, I would like to repeat this trite argument: the P&P Ordinance is the Legislative Council's "Imperial Sword", and it should not be deployed casually. Instead, it should be used to deal with issues involving significant public interest. Furthermore, it should be used on a non-discriminatory basis.

As everyone knows, UBWs in Hong Kong, be they found on the Peak or in Sham Shui Po, in the New Territories or the urban areas, are actually very common. Regarding the detection of UBWs and dealing with this common phenomenon in society, we must act with prudence in an indiscriminate manner. According to news reports, UBWs can be found in the properties of a number of senior government officials and celebrities. So, must all these people be investigated? Is the Legislative Council a legislature or an investigation organ?

President, what I wish to point out is that the P&P Ordinance is our lethal weapon in dealing with issues involving significant public interest, so it should not be deployed casually. Once it is deployed, it must be used in an impartial manner. We must not regard this "Imperial Sword" as a weapon for political struggles. I hope Members can focus on issues in question rather than making it personal. Furthermore, double standards should not be adopted.

President, although I am not a believer, I have read quite a lot of religious books. I have read the *Bible*, too. *Philippians 3:13* reads, "forgetting those things which are behind, and reaching forth unto those things which are before". As the incident involving UBWs at his home has been lingering on for months, I would like to quote this biblical verse to advise the Chief Executive to learn a

lesson from this incident and hit the road again by leading his team to serve the people, implement various livelihood policies, regain trust from the people, and bring society back onto the right track.

With these remarks, President, I oppose the motion.

MR JAMES TIEN (in Cantonese): President, the motion moved by Mr LEE Cheuk-yan today proposes to set up a select committee to inquire into the issue of UBWs involving the Chief Executive. The motion of no confidence in the Chief Executive moved last week was also caused by his UBWs. In the week before last, the Chief Executive appeared before the Legislative Council to face Members and express many views of his. Now the Liberal Party would like to present our views on the whole incident. Insofar as UBWs are concerned, some colleagues think that UBWs are very common in Hong Kong, and this I agree. The expression "僭建" in English can be divided into two categories, namely UBWs and illegal structures. However, they are mixed up and called "僭建" in Chinese, meaning unauthorized or unapproved buildings or even structures.

Certainly, there are large and small UBWs. Many structures erected by members of the public without authorization, such as drying racks, can be regarded as UBWs. The outdoor stands of split type air-conditioners erected without authorization can be regarded as UBWs, too. Hence, I think the four or five out of the five or six UBWs found in House Nos. 4 and 5 of the Chief Executive on the Peak, such as the trellis and the superstructure above the car hold, are really quite common in Hong Kong, except for public rental housing residents, who cannot possibly build any UBWs. However, an underground secret room is really UBWs, not to mention that it measures 200 sq ft or 300 sq ft. The Chief Executive must not beat about the bush and say that the building works are not unauthorized.

Some other people have asked this question: Since UBWs are so common in Hong Kong, why is the incident involving the Chief Executive's UBWs taken so seriously? In my opinion, although members of the public agree that UBWs are very common, many people with UBWs, whether or not they live in luxury properties on the Peak or at the Mid-Levels, do not run in the election for the office of Chief Executive. They might just be running their own businesses. If a person wishes to take up the office of Chief Executive, should he be more

prudent with his words and deeds? Hence, does it mean that he must not run for the office of Chief Executive if he has UBWs? Why? It seems to me that this is unjustified. However, when we analyse the issue of UBWs, integrity will come into the question, and speaking of integrity, we think that he has somewhat won the office of Chief Executive by cheating. Such being the case, something has gone seriously wrong. It is not simply about the holder of the office of Chief Executive having UBWs.

As regards the issue of integrity, if the Chief Executive believed that he had no UBWs, why did he build a wall to seal his basement? If he believed that the basement was not unauthorized, why should he seal it? He could just let it remain. Instead, he has all along remained silent and during the election campaign in March — I am referring to the Chief Executive Election, not the two debates between Henry TANG and him alone — several candidates visited many academic institutes and districts and met with many people to listen to their views. During the campaign, Henry TANG gave the impression that he had UBWs, whereas Mr LEUNG Chun-ying as a candidate had no UBWs. Conversely, people thought that there was something wrong with Henry TANG's integrity. Hence, we could see Henry TANG enjoyed a popularity rating of 30% to 40% between end-February and early-March, whereas Mr LEUNG Chun-ying's popularity rating was only more than 10% or around 20% during the same period. However, their ratings turned out to be completely opposite in the last two days. According to an opinion poll, the support for Mr LEUNG Chun-ying as a candidate for the office of Chief Executive was 30% to 40%, whereas that for Henry TANG fell to 10% to 20%. The Central Government would certainly look at the opinion of Hong Kong people. In the end, it favoured LEUNG Chun-ying to win the office of Chief Executive. From this angle, can we say that Mr LEUNG Chun-ying has somewhat won the office of Chief Executive by cheating?

As the incident unfolds, the Liberal Party holds that all the documents and the several Question and Answer Sessions already held demonstrate that there is concrete evidence showing that, insofar as this issue is concerned, the Chief Executive is involved in UBWs and being dishonest. We are 100% certain — we should not have gone so far — more than 90% certain that there is something wrong with the Chief Executive. So, is an inquiry still necessary? Unless Members of the pan-democratic camp disagree with our view that there is something wrong with the Chief Executive, there is no need for an inquiry to be

conducted. If colleagues on this side consider that there is nothing with him, they might need to explain why an inquiry is not required. If we consider that there is something wrong with him, an inquiry will no longer be required.

President, the motion today is dealing with this incident. Certainly, the motion of no confidence last week still has a second part. In the opinion of the Liberal Party, there is concrete evidence showing that there is something wrong with the Chief Executive's integrity because of his actual involvement in UBWs and actual denial of it, which had indeed pushed up his popularity in the opinion poll conducted in March, thus leading to the Central Authorities' decision to give him support to win the Chief Executive Election. Regarding all this, we think we have already had adequate evidence or information to justify this view of ours. Hence, what will happen if an inquiry is conducted? No matter what we do to investigate, we can only prove that he is guilty. Hence, we consider it unnecessary for a select committee to be set up today to investigate him.

President, as we may each speak for up to 15 minutes, I would like to talk about the next part. Last week, after lengthy consideration, we finally decided to hand him a "yellow card" rather than a "red card". Or if there is something wrong with him, as the barrister suggested, can he be given a suspended sentence rather than an immediate sentence? Certainly, in defending the Chief Executive last week as Acting Chief Secretary for Administration, Secretary TSANG mentioned many points to show that he has been working very hard. For instance, he told us the number of deputations and members of the public the Chief Executive had met with in the past six months to illustrate that he had been working very hard. As for me, I do not find him completely wrong. In his capacity as the Chief Executive, LEUNG Chun-ying has been dealing with everything most proactively over the past six months. Although the Liberal Party does not approve of some of his approaches, he has been handling things in a very positive manner.

In our opinion, Mr LEUNG Chun-ying has somewhat won the office of Chief Executive by cheating. I have all along been in the industrial and commercial sector and, for instance, if I employed a staff member who had somehow won his job by cheating during the interview but appeared to be very hardworking at the moment, should I fire him or give him a chance to demonstrate whether or not he can get his job done? This is similar to our

concept of giving Mr LEUNG Chun-ying a chance by giving him a "yellow card". How much time should we give him? As I mentioned last week, let us give him some time to demonstrate to us whether or not his policy can gain recognition by the public after implementation. We can then consider our next move. After the debate on the no-confidence motion last week, the opinion polls conducted by several newspapers this week have turned out to have a very strange result of a half-half split between the respondents. While more than 40% of the respondents consider that there is something wrong with him and he should step down immediately, another 40% or so of the respondents think that there is something wrong with him but he may remain as the Chief Executive. This precisely demonstrates that the Liberal Party has adopted an approach which is disapproved by half of the respondents but approved by the other half — those who think that there is something wrong with him but still hope to give him a chance to get his job done.

In view of this incident, I believe society and Members will pay special attention to his acts in the future, particularly his integrity, to examine how he gets his job done. I also agree that it is relatively difficult to deal with policies. Whether a certain policy is good or bad is not purely his sole responsibility. For instance, we do not entirely support the introduction of the Buyer's Stamp Duty and will propose amendments in due course. However, if property prices really stabilize in one year, should this be considered a success? Is there anything to do with the Chief Executive if property prices remain unstable? As for the Old Age Living Allowance, while the DAB and the Liberal Party propose that the asset limit be raised to \$300,000 and \$500,000 respectively, the Government considers that there is no need to relax the limit. I believe members of the public will have their own views on the effectiveness in the future.

The sole indicator for the success or failure of a series of policies is opinion polls. In an opinion poll targeting members of the public regarding each and every policy, the outcome is either passed or failed. Integrity is to be dealt with separately, as it is a personal matter of the Chief Executive. At present, insofar as other policies are concerned, I hope he will not develop any more problems with integrity. Under such circumstances, the Liberal Party has already stated its position that we consider that there is evidence showing that there is really something wrong with him. Given that we have made such a decision, we consider that there is no need to set up a select committee to follow up the

incident. Therefore, the Liberal Party will oppose this motion today. Thank you, President.

MR ALBERT HO (in Cantonese): President, today, many pro-establishment Members have reiterated again and again that our "Imperial Sword", namely the P&P Ordinance, should be deployed only when significant public interest is involved but not be invoked indiscriminately. Have colleagues actually used their brains or listened with their ears before making such remarks? Members should know clearly that the focus of our discussion and concern in the whole motion debate is not simply about UBWs. Even LEUNG Chun-ying himself has once said that it is actually a problem of integrity. If the Chief Executive's integrity is being questioned, how come this is not an issue of significant public interest?

I believe Members know it very well that, in the intensive discussions among people in the streets, the press media and even on the Internet, the Chief Executive is called a "liar" or a "liar Chief Executive" for allegedly telling lies to cheat the media, members of the public and the Legislative Council and, most of all, win the office of Chief Executive by cheating. All these allegations are founded on facts not admitted by the Chief Executive. It is precisely for this reason that we consider it necessary to conduct a full investigation to dig out the truth and set the record straight.

President, if this problem is not resolved, it will turn into a real UBW problem, for the Chief Executive will become the largest institutional UBW. Should our Chief Executive turn into a political UBW, is it possible for him not to be "torn down" by the public?

Many colleagues have questioned what else Mr LEUNG Chun-ying can say since he has dealt with the relevant matters in an open and transparent manner, answered numerous questions put to him and appeared before this Council to face more than an hour of questioning. In fact, if we review his approach over the past several months, we will find that he will follow a few steps. When faced with a question, the first tactic he will use is to evade it with excuses such as he has forgotten, he has to look up the records because of the long lapse of time, or he is not entirely clear. He will never answer questions

readily. He will even dilly-dally with numerous questions and address them only after a long time.

His second tactic is to cover up by all means. In the most obvious case, he dismantled a trellis in the evening upon learning that *Ming Pao Daily* would publish a report on his UBWs the following day. As for the UBWs at his residence in Stanley, they had already been dismantled and turned into historical relics. As a result, when the staff of the Buildings Department (BD) arrived at the scene for inspection, they could only find some columns and staircases. As for other UBWs, he had built a wall to conceal them and then claimed that there were no UBWs because they were out of sight. If not for the four letters issued to LEUNG Chun-ying after inspection by the staff of the BD in June this year during which they smelt a rat, I believe he will not disclose and admit this incident today. This is his way of deliberately covering up his UBWs.

His third tactic is to play "hypocritical rhetoric" in tendering an apology when he can no longer cover up anything by explaining that it was not the case according to his understanding at the time. For instance, he said that to his memory, he had never said that he did not have any UBWs. Then, he went on to explain that he was just referring to the fact that he did not say so during the election campaign. Very often, when his words were challenged, he would add many tails, saying that it was not what he meant at that time. For instance, he denied when he was asked whether he had rung up a journalist. However, when someone made it clear that he knew about the telephone conversation between a journalist and him, LEUNG Chun-ying said that he did not initiate the telephone call. That was his way of talking. He would seek to shirk his responsibility on the excuse that the telephone call was not initiated by him, even though he had talked to the journalist over the telephone.

The Chief Executive has been unsparing in his employment of "hypocritical rhetoric" to evade questions. In the end, he will tender an apology when he finds it no longer possible to hide, and a lot of factual evidence has been dug out by the public. However, his apology is insincere as it is not founded on frank and full acknowledgement of facts. Some people even believe that his apology is meant to put an end to the incident only, so that he can continue to cover up or hide certain facts which cannot be revealed or he is reluctant to make public. If his apology is not frank and sincere, how can we accept it and believe

that the incident is resolved completely? Therefore, the biggest problem at the moment is that we need to know the truth. This is the objective of the motion proposed today by Mr LEE Cheuk-yan, too.

What are we afraid of? What is LEUNG Chun-ying afraid of? What are the establishment and royalists afraid of? I certainly know the answers. Naturally, a person who is lying or a liar who does not wish to see his lies exposed will find investigations into the truth the most fearful. By the same token, people telling the truth and honest people will naturally not be afraid of any comprehensive, impartial and independent investigations into the truth. They may even think that clarifying and revealing the truth is their most powerful weapon. Not only can it prove their innocence, it can even be used to launch a counter-attack on people who defame them. Now, this is precisely where the problem lies. Today, we can see clearly that Members supporting Mr LEE Cheuk-yan are not afraid of the truth, investigations and the disclosure of the truth. Neither are they afraid of facing the truth. On the contrary, Members opposing the motion are seeking to evade the truth on all sorts of excuses just because they are afraid of facing it.

Just now, the incident involving KAM Nai-wai was cited as an example. In fact, Members should have known right from the beginning that the Democratic Party's stance towards the incident was pretty clear. Not only did we co-operate with the inquiry, we even supported, rather than opposed, follow-up actions taken by the Legislative Council by means of any investigation deemed impartial and exerted our utmost co-operation. It was entirely up to the Investigation Committee to decide whether or not the P&P Ordinance should be invoked at that time to follow up on the incident. If the P&P Ordinance was really invoked, I believe KAM Nai-wai would absolutely be willing to face the investigation and anyone involved would exert their utmost co-operation. This was the attitude that members of the Democratic Party or the pan-democratic camp ought to adopt.

Many royalist colleagues have accused us of taking this opportunity to make LEUNG Chun-ying step down. If he has to step down after the truth is revealed, we should let him do so rather than pity him. A "political UBW" ought to be dismantled. As the saying goes, "a rotten tree breeds worms". What is the point of condoning or shielding someone who cannot face the truth? Some people also say that members of the public are already sick of Members

entangling themselves with this incident. However, President, if the Chief Executive or some people continue to harbour lies and refuse to handle this incident in a fair and impartial manner in order to dig out the truth and do justice to the community, members of the community will not be convinced, either. They will not only question the words of the Chief Executive whom they do not trust, they will also query whether he is telling the truth and playing "hypocritical rhetoric". In fact, this is what we are most weary of and this is why the community has continued to be dogged by it. Therefore, the accounts must be squared properly. As regards how to do so, we must tell the truth in addition to raising hands to state our position and arguing who should step down.

President, as stated by Mr Michael TIEN just now, the invoking of the P&P Ordinance will no doubt cost dearly. But is it not worthwhile to pay this price? Despite his claim that he has considered this for days, has he reviewed the several investigations conducted by the Legislative Council which should still be fresh in the memory of members of the community? The incidents involved include the handling of SARS, the chaos caused by the relocation of the airport, the incident involving LEUNG Chin-man, the social turmoil caused by the Lehman Brothers Incident and the property losses incurred by the public and lastly, the incident involving the declaration of interest by LEUNG Chun-ying in the West Kowloon Cultural District Development Project. The last one involves integrity, too.

If Members look up the reports of these previous investigations and consider them worthy whereas Members have also made their best efforts, on what ground did the Honourable Member say that it was a waste of money, public funds and energy to do so? If what Mr Michael TIEN said just now is taken as a factor for consideration, then the simple conclusion was it was not worthwhile to carry out any of these investigations. Then we had better simply repeal this power. Hence, one need not speak nonsense anymore. What is the point of talking nonsense? One must pay a price for pursuing the truth and justice. I believe society will be willing to pay this price because what we treasure is a clean Government and we hope to have a Chief Executive who truly has integrity.

President, according to our experience in conducting inquiries under the P&P Ordinance, a select committee thus formed will comprise Members from various parties and groupings. We will not only summon witnesses and collect evidence in a restrained manner, but also hold open and rational discussions in

making analyses and drawing the final conclusion the collection of evidence. Even if there are different views, they will be listed very clearly in the report. Most importantly, the investigation will certainly be conducted in a very systematic and well-planned manner most of the time and all the persons who should be summoned will appear before this Council, so that they can disclose the relevant messages, information and documents under the protection of the law without being subject to a lot of restraints.

There are still a lot of things unknown to us. For instance, the contents of the transaction agreement of LEUNG Chun-ying are so strange that a provision is added stating that the buyer will take possession of the property as agreed even if UBWs are found. In view of this, I am very interested in knowing the contents of his provisional agreement on sale and purchase. It will be perfectly clear if the same provision is also found therein. Furthermore, a surveyor's report had to be prepared by the bank when approving a loan. For such an expensive property, the report had to be prepared independently by the bank. So, were those UBWs detected at that time?

President, his fox's tail will be exposed if information relating to these two aspects is disclosed. By that time, the Chief Executive will have to make his own decision if he really has to "dismantle" himself as a "political UBW". It is just as simple as that. If there are no irregularities, he might as well disclose all the information. There are still a lot of things, but I do not wish to dwell on them further now. Everything can be disclosed so long as an inquiry is conducted. *(The buzzer sounded)*

I support Mr LEE Cheuk-yan's motion.

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

MR CHAN CHI-CHUEN (in Cantonese): President, last Sunday when I visited the districts I met a young girl who said loudly to her mother, "You are just like LEUNG Chun-ying." I thought, what is the matter? Then her mother explained that her daughter was saying that she did not have any credibility, for she had gone back on her words. Honestly, I do not worry that this Mr 689 can have any bad influence on kids because even a six or seven-year-old kid will know that

LEUNG Chun-ying is a liar. He has become the synonym for a liar. He has also become an adjective, people will say, "Don't be so LEUNG Chun-ying." This means do not always tell lies.

It is certainly the wish of many people in Hong Kong that a select committee be appointed to conduct an inquiry because they hope that the truth can be uncovered. Given the developments to date, the meaning of conducting such an inquiry is to teach the people a lesson, telling them that all the queries and suspicions should be founded and substantiated. They should be told what matters of principle are and our young people can be taught what is meant by integrity, what the grave significance of the holder of the Chief Executive office is, the rights and responsibilities of people vested with public powers, under what circumstances should we forgive and forget and under what circumstances should we be especially demanding of this person. When so many people in Hong Kong are living in sub-divided units, the Chief Executive can go on adding UBWs to his mansion. Just imagine, to whom should we give our pity and extend our sympathy?

Mrs Fanny LAW urged earlier on that the people of Hong Kong should put down the problem of UBWs surrounding LEUNG Chun-ying. And today, some Members have done the same and asked the people to put this problem aside. I would think that the people of Hong Kong have put aside far too many of their political rights and now they should brush aside this Mr 689. He should put aside his powers and privileges, face this fact of the bankruptcy of his integrity and give a clear account to the select committee. Then he should resign and set an example to the people of Hong Kong that he is a responsible person. In this way, he can teach the people a good lesson.

About the UBW problem of LEUNG Chun-ying, if a select committee is not appointed to investigate the matter, it will not only be doing a disservice to the people of Hong Kong but also to the vast number of media workers and reporters who toil from day to night to collect information and evidence regarding the UBWs built by LEUNG Chun-ying. From the reporters we can find evidence of UBWs both in LEUNG's house in Stanley and his residence on the Peak. All the information comes with detailed reports and photos and they serve to reveal the absurdity of LEUNG's statement on the issue. We can find the articles in many newspapers are more meticulous and convincing than the analyses made by Members, and these articles are more interesting to read.

Moreover, the inconsistency in the remarks made by LEUNG and this confusion of time and space are even more intriguing than a detective story. All these articles have dominated the headlines of the newspapers every other day. If we do not conduct an inquiry through a select committee, it will not be possible for the people to know the truth.

LEUNG Chun-ying has been telling lies to such an incredible extent that he himself is cheated. Recently, he has been hosting these so-called consultative sessions, trying to create an impression that he is really doing some practical work. He uses a language that has an effect on us like when we are reading some Mainland newspapers, that is to say, we have to read the other way round to know the meaning. Every time when he says that he wants to be open and transparent, it means that he will cover up the truth. Recently, he attended a consultative session held in Radio Television Hong Kong and he said to our great surprise that he would give an account of the facts and that one should admit his wrongdoings. If he is clean, then why should he not be probed into? He should make a public demonstration of what is meant by being open and transparent. And this select committee could be the only opportunity available to let him act in an open and transparent manner and set an example for everyone to see.

If Hong Kong people are to believe that he has no integrity problem, (the focus of our discussion today is on integrity and no one dares say that he has no problem with UBWs), then I would think that Hong Kong people would rather believe that he has got a mental problem than believe that his integrity is clean. The problem here is with this UBWs compulsion complex, that is, he will not stop once he has started building UBWs. On top of that, he is a habitual liar and he has a selective loss of memory, plus a split personality. If all these are proved, the select committee should have some representative from the medical profession to prove that these acts are pathological. Then we can decide whether he would merit leniency if he makes a confession.

Now we can see that he can hardly make any progress in administering Hong Kong. He always shifts the blame onto his predecessor and says that all these problems are left behind by the previous-term government. Likewise, when it comes to the problem of UBWs, he puts up the excuse that they are left behind by the previous owner. However, with respect to the question of investigating these UBWs, it is obvious that before LEUNG Chun-ying has assumed office, staff from the Buildings Department (BD) did impress us with

their great efficiency in investigating the UBWs in Henry TANG's house during the Chief Executive Election. They had repeatedly bored into the walls of his basement to take samples. But according to media reports, after LEUNG Chun-ying had assumed office, the BD made a delay of five full months before investigating LEUNG's residence on the Peak. If it is not because of the reason that efficiency in government departments was particularly impressive under the leadership of the previous-term government, then it would be difficult to blame the media and the public for suspecting that the BD is shielding at LEUNG Chun-ying.

Earlier on before other Members spoke, Secretary Paul CHAN made a speech lasting for 23 minutes and 11 seconds. He said repeatedly that Members had blamed the BD for no justifiable reason and the BD was wronged and smeared. He said that this would deal a blow to the morale of civil servants and even the morale of civil servants of the professional grades. He said that the BD would act according to the prescribed procedures and the law. When I was hearing this speech, I thought that colleagues in the BD had been wrongly blamed and misunderstood. But they could not air their grievances. It is precisely because of this that we think an inquiry should be conducted and a select committee appointed. This is because we can actually see many people who do not trust LEUNG Chun-ying, and even the BD, the Development Bureau and Secretary Paul CHAN.

Maybe the lies told by LEUNG Chun-ying are a kind of virus and it could spread and infect people. I am really worried that the BD will be infected. But how can this be cured and how can the BD be vindicated? That I really do not know. Even if Secretary Paul CHAN spoke for another half an hour, those who believe in him — like many of the Honourable colleagues in the pro-establishment camp — will believe in him; but for those who do not believe in him and those who have doubts and queries, it would not help at all even if he spoke again and again like a tape recorder. What should we do with this impasse?

In 2000 and 2001, the BD only found a space of about 2 000 sq ft covering the beams and pillars, walls, stairs and floor slabs. It was not possible to tell whether or not there were any UBWs at the time when a press release was issued. When it is said that an investigation is conducted into LEUNG's residence on the Peak, it really makes people worry that their investigation is not thorough enough and again it would not be able to tell what has been modified and what are

illegally built. And we must not forget that there are many victims, including Mr Henry TANG and the Central Government. We always think that they are the victims of this scam-of-the-century since the reunification of Hong Kong. If nothing is done to dig out the truth and identify deficiencies, it would really be a disgrace to our country.

On this question of integrity of those in power, it is unlike the case of a kid having lied and all he needs to do is to say sorry and then the wrong done can be forgiven. Integrity is something formed in people's hearts and once lost can never be found again. And what is more, this Mr 689 has made repeated mistakes and he is covering one lie up with another. It cannot be said that our demands on him reflect some double standards. And even if double standards are applied, I would think that it is perfectly sensible and reasonable. This is because with respect to those who hold the reins of power at the topmost level, they should be whiter than white when it comes to the question of integrity. I think this is something we all know.

Warren BUFFETT has this famous quote: It takes 20 years to build a reputation and five minutes to ruin it. Now the people of Hong Kong are not being made to bear with the passage of these five minutes, but they know that this Mr 689 is fancying that he will stay on for five and even 10 years as the Chief Executive, telling piles of lies and engaging in his "hypocritical rhetoric" all the same. The public has an impression that the BD is his shield against the flak of criticisms. So if a select committee is appointed to head an inquiry, it would be the most powerful and effective means to dig out the truth of this matter. Therefore, the People Power supports this motion from Mr LEE Cheuk-yan, that is, to invoke the Legislative Council (Powers and Privileges) Ordinance and appoint a select committee to inquire into the problem of UBWs in LEUNG Chun-ying's residence on the Peak.

I so submit.

MR ALAN LEONG (in Cantonese): President, just now a Member said that the situation now is like an employee having got a job by cheating and instead of firing him, we might as well put him on trial for some time and see how he performs. I would advise this Honourable colleague against doing that. Just think, if someone shows a forged university diploma and claims that he is a

graduate of a certain university, but it turns out that he is not, and if that person is hired, would you believe in anything that he does? Would you not have doubts that since that person is not honest, he cannot be trusted? Moreover, we always say that we should not hire a person if we have any suspicion of him and once the person is hired, we should not suspect him. If there is one such employee who has got his job by cheating, and if you can give him a trial term, then I will really be very worried for you.

Besides, some Members have said that the opinion polls show a half-and-half situation. Everyone thinks that LEUNG Chun-ying is lying. But half of the people think that even though he has told lies, he should be permitted to fulfil his duties as the Chief Executive and he should be given a chance to remedy his mistakes by his achievement. However, the other half of the people do not agree and think that they should not be wronged in this way and they will never accept a Chief Executive who is a liar. It is because this would make the people of Hong Kong feel very embarrassed whenever mention is made of their Chief Executive. Just who is right and who is wrong? I am not going to pass a judgment now.

President, although half of the people are convinced that he is a liar, they think that he should be allowed to do some work and especially regarding people's living and in this way, his achievements may offset his mistakes. Actually, this is a fatalistic mentality. A Member said last week, it is very difficult for us to find another person to replace LEUNG Chun-ying. This is absurd. President, I do not know if you notice that two days ago TVB had an award-giving ceremony and a TV drama series won the award for the most popular TV series last year. It was called *When Heaven Burns*. And at the end of every episode a theme song would be aired and it is called to the effect of "The Young and Ignorant". I would like to share a few lines from the lyrics of that song with the other half of Hong Kong people. They go like this: "If destiny can be chosen, we would take each step at the crossroads of life freely; If life can be honest, our old beliefs will not be battered by time and age." President, when we are certain that LEUNG Chun-ying is a liar, but we may consider it troublesome to find a replacement, I wish to remind Members, that one person out of every two thinks this way. But we know one can choose his destiny and God will help those who help themselves. We should do what we ought to do. We should not say to our children and our children's children, "Look, LEUNG Chun-ying has cheated his way to get his job, but I will let him stay on and we are

all safe and sound." President, someday our children and our children's children may ask us, "Why can a Chief Executive lie and get his job by cheating? Why would you still let him do that and stay on even though you have suspicions of him? In that case, then dad (or grandpa), I will not tell the truth anymore."

This line says that at the crossroads of life, when you know that destiny is in your hands and every step you take would be free. It is really so. Who knows what would happen after LEUNG Chun-ying has resigned and stepped down? We should do what we ought to do. The other line of the song says, "If life can be honest, our old beliefs will not be battered by this time and age." Do we have to feel wronged and accept this age of lies when those values such as integrity which we used to treasure in the olden days can be dumped, discarded and simply forgotten? Is this not a battering of those values in which we have always put our faith? Why do we have to feel wronged this way?

President, it is reported that this drama series was awarded the most popular TV drama after ballots cast by viewers in a one-person-one-vote manner on the Internet. I hope to share my thoughts with friends from this perspective. I hope that this half of the people, who feel that they are wronged and those who think that the values they have always believed have to be battered by the times, or those who think that their destiny is not in their own hands, can think again and come out at three o'clock in the afternoon on 1 January and come to the Victoria Park. There they can use their feet to show that their destiny is in their hands, and they can make a choice and take each step freely.

President, this Council has actually given LEUNG Chun-ying many breaks, but as at today, he has not given Hong Kong people a satisfactory explanation or apology. I do not wish to let some Members of this Council easily advance straw arguments. President, he has indeed apologized. He apologized quite a number of times right at that spot which is less than 10 feet away from where you are sitting. But President, you must have heard it more clearly than I did. What was LEUNG Chun-ying apologizing for? It was for his omissions. Not for his deliberate attempt to cover up the fact of his underground illegal structure with an area of 322 sq ft. He was not saying to the people, "I have indeed told a lie and I am now making an apology. I should not have told this lie." He was only saying that he had had some omission and he was apologizing for his omission.

Therefore, President, as at today, LEUNG Chun-ying has never apologized for the lies told by him. We can see this arrogance in power and as we see more, we can see the same arrogance in power. It is like he is saying, "I have told lies and there is no question about it, but look, half of the people of Hong Kong still support me. What can you do about it?" Can we stand a Chief Executive like this? President, why is he so haughty?

In the eyes of LEUNG Chun-ying, it is only the people who have heard it wrong, the media which have misread him and Members who have blamed him wrongly. But he is clean. I really have an impression that LEUNG Chun-ying has formed a habit of telling lies and he has even gone way over board. So I really hope that the people of Hong Kong will not succumb to destiny. Remember, our destiny is in our hands. And we should not let the values in which we trust battered by this age of LEUNG Chun-ying.

President, the Civic Party supports the motion moved by Mr LEE Cheuk-yan today to appoint a select committee under the Legislative Council (Powers and Privileges) Ordinance to conduct an inquiry. This is because with respect to the UBWs in LEUNG Chun-ying's residence, many questions indeed remain unanswered. I am sure Members will agree that when we invoke the Legislative Council (Powers and Privileges) Ordinance to set up a commission of inquiry, we will address the role played by the Buildings Department (BD) and the Office of the Chief Executive-Elect in the incident. I would only mention one or two points regarding this incident because of the time constraint and it may not be possible for me to discuss all the issues. Other Members such as Mr LEE Cheuk-yan have listed 12 suspicious points that warrant investigation. And I agree with all those arguments.

As early as in November last year, LEUNG Chun-ying was aware of the existence of UBWs in his house, and what did he do? He used bricks to seal off the void. He thought that when the void with the UBWs could not be seen, it means there was no void and it also means that there were not any UBWs. This is his line of argument. He even says through Secretary Paul CHAN now that there is no need to apply for works commencement papers from the BD for that brick wall. President, this is most ridiculous because on the other side of the wall, there used to be not a space of 322 sq ft. NOW TV has produced a special feature and President, I think you may have watched it as well — they have found a plan and what is shown on the plan is not a simple brick wall but a RC wall, that

is, a reinforced concrete wall. What is beyond that wall? According to the plan, it is a piece of unexcavated land, a piece of land which does not have the sand and stones excavated. On the other side of the wall is now a void. How can it be said that the void is shielded by a brick wall and since no application is required for that brick wall, there should be no problem about it. Is this line of argument not ridiculous?

President, what is the purpose of his sealing off the void? His purpose is simple enough. He knew clearly that it was an UBW and so he sealed off that void. If he thought that there was not any problem, then why did he seal off the void? To seal off the void is to deceive oneself, thinking that there is no problem once it is not seen. Then what did he do afterwards? After he had covered up this UBW, he went to attack his opponent Henry TANG. He said to him, "This is not a simple question of UBWs. You have cheated the people and this is a question of integrity." If he can made remarks like those about Henry TANG, why does he not apply these to himself? The two cases are similar and they are apt. President, what is more, this is not a simple problem of integrity, but he had deliberately covered up the void and used the same issue to accuse Henry TANG. Would this not be a more serious thing?

President, the BD said that it had sent some staff to inspect the site. I think it was on 26 June. Then there were reports in the newspapers saying that the BD had sent some staff to inspect LEUNG's residence. But on the night of 25 June, actually the BD had sent some staff to inspect the place and issued a press release. But the Office of the Chief Executive-Elect had denied twice that there were any servant's quarters in LEUNG's residence which was an illegal structure and it was flatly pointed out that the space did not exist. On 26 June the BD had made an inspection, but no announcement was made afterwards. After the staff responsible for the inspection had reported to their superiors, the superiors said that there was no need to follow up the case. If a select committee is appointed under the Legislative Council (Powers and Privileges) Ordinance, then these staff can be summoned to tell us clearly what exactly they had done at that time.

Lastly, President, I wish very much to say to the people of Hong Kong that they should never be fatalistic because our destiny is in our hands. They should not let their values, that is, the demand for integrity, be battered by the LEUNG Chun-ying age. I so submit.

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

MR FREDERICK FUNG (in Cantonese): President, I support the motion today. With respect to the things done by LEUNG Chun-ying, actually the motion today aims at exploring two aspects. First, whether or not he has any UBWs. Of course, apart from whether or not LEUNG Chun-ying knows that there are UBWs in his residence, there is also a question of whether government departments have done anything wrong in handling the case of the alleged UBWs in LEUNG Chun-ying's residence. Second, about how LEUNG Chun-ying has handled the problem of UBWs in his residence and after the discovery of the problem of UBWs, how he has handled the matter and gives an account to government departments, the Legislative Council and members of the public.

President, on the issue of how the problem of UBWs is handled, I would first talk about the practice employed by the department concerned. This is because I think the problem *per se* is the least serious, only that there are some things which as an ordinary person.....I am not an expert but I know many residents who have to face the problem of UBWs and the practices taken by the department concerned are really different from the way the problem of alleged UBWs is handled in the case of LEUNG Chun-ying. If an ordinary member of the public is suspected by the department concerned or if the department thinks that there are any UBWs, usually action will be taken in three steps. First, a notice will be issued by way of a letter to point out where the UBWs are and the owner is required to handle these speedily. Second, after some time has lapsed, if the owner has not done anything, a second letter will be issued and that is a warning letter that lists the UBWs in the property concerned and they must be removed within a certain time. Then the departmental staff will come for an inspection. Third, if the owner still has not done anything, there would be two possibilities. One is that the Department will issue an order to require the owner to remove the structures by himself before a certain specified time. The other is that if the owner does not remove the UBWs by himself, the Department will send someone to remove them and the costs will be recovered from the owner later. All in all, the UBWs concerned will certainly be removed.

There is no compromise with respect to these three steps and the Department will certainly take action. However, the practice employed by the

Department on this occasion is different. This includes the four letters mentioned by Mr LEE Cheuk-yan earlier, that is, the four letters issued by the Department regarding the sealed room which was discovered after knocking the wall and it was found that the space behind it was a void. Regarding these four letters from the Department about the sealed room, the Secretary has explained that it is not possible to prove that there are any UBWs in the house, so some staff have to be sent inside the residence to carry out an inspection. However, if it is an ordinary member of the public, it is not necessary for the Department to send its staff inside the place to undertake an inspection. The staff concerned can make an observation outside or inspect the plan or even say directly to the owner that they must enter the premises for an inspection. Even without entering the premises and carrying out an inspection, the Department can directly point out what are the items which should be removed. I do not understand why as many as four letters have to be sent. No reply was made to the first, second and third letters. Why did the Department have to continue sending letters to make enquiries instead of going inside the premises direct for an inspection or to apply for an order which authorizes its staff to go into the house for an inspection? The question is, why is the practice employed by the Department different? Maybe the procedures concerned could be appropriate, but I do not know if procedures applicable to officials and ordinary members of the public are different. However, I would think that this is a small problem and I am sure this is not the aim of the motion proposed by Mr LEE Cheuk-yan today.

The second issue is whether or not LEUNG Chun-ying has ever built any UBWs. Last week, that is, on 10 December he said when attending the Question and Answer Session in the Legislative Council that he would remove the UBWs if any. And he would attend to these as soon as he became aware of them and it would be considered his omission if they were not properly dealt with. In other words, irrespective of whether he had any UBWs, he considered the omission to be his greatest mistake. Is this really the case? First, did he remove these UBWs as soon as he knew that they existed? The newspapers have reported a number of examples. Of course, I do not care whether or not he was the Chief Executive at that time because he did not say that he would clear these UBWs after he had assumed office. Actually, the situation about his property at Tung Tau Wan Road, Stanley, has been reported in detail. In 2000 some reporters from a newspaper asked him about the UBWs there and he replied that they were left over by the previous owner and that was not his business. In 2001, when he was asked again about it, to our great surprise he said that he did not know that

there were any UBWs. His replies in 2000 and 2001 were so different. This is so surprising. Given a person like LEUNG Chun-ying who is so smart, how come he can give two versions of a reply in less than 12 months? Then a newspaper found a satellite photo and it turned out that the illegally constructed corridor appeared in 1987 and he had already bought that house then. Do you think that he was aware of this or not? We may leave aside the question of whether he knew about it, but is the structure illegal? I am sure it is. But he did nothing to remove the UBWs once he knew they were there.

Then there is the question of that secret room. That is certainly a more sensitive issue because, in principle, it is similar to the basement of Henry TANG. As for the difference in size, I think they are similar. If that secret room is not an UBW, then there would be no need for him to seal it off and he could leave it open. But he has sealed it off because he knows that it is an illegal structure. However, is sealing off an illegal structure the same as there is no illegal structure? As an ordinary person, I do not think it is. Does the Secretary think that this means that there is no illegal structure? If someone digs a big hole and turns it into a room, then he seals off the room, does it mean that the room does not exist because no one can enter it? Does the room cease to exist? I have doubts about it, for even if the room is sealed off, it still exists. Only that no one can enter it. In other words, I have an illegal structure but I do not let you see it. Or, Hong Kong people are not allowed to own firearms, but I have a gun. I hide it so that you cannot see it. Then I tell you that I do not have any gun. This kind of argument is utterly inconceivable. So this secret room is an illegal structure. When he says that he would remove any illegal structure if found, but he does not do it. Something sealed off is not the same as removing it, only that it is hidden from view.

I therefore think that the way to handle LEUNG's problem of UBWs hinges on whether they exist or not. If they do, should they be immediately removed and according to the rules and regulations set by the Government? When an illegal structure is sealed off, is the action in compliance with the rules? Or is the very action of sealing off an illegal structure itself illegal or is it an illegal structure? If it is, it means that he has not acted according to his words and that is, to remove any UBWs once they are found.

Is it a serious offence if someone does not clear an illegal structure? Must the office-holder step down or be subject to a trial? I do not think it is as serious

as such. In law, the possession of an illegal structure is not punishable by a jail term. Of course, the offender will be given a jail sentence if it is a serious case. That will have to depend on the nature of the illegal structure concerned. If someone is found to have tampered with the building plans and planned to build any illegal structure at the time when the building concerned is being constructed, then he will be put in jail. For ordinary cases of UBWs, the person concerned will not be put into jail after the illegal structure concerned is removed. Another option is that the Government will remove the structure and the matter is considered settled when the costs are paid to the Government. So I do not think that this is a deadly sin.

I have said many times, especially to the media, that in this case, the crux of the matter may not be in the UBWs, but how they are handled. I have said right from the beginning that this may be a replica of NIXON's Watergate saga. In other words, many different ways are used to cover up non-compliance. And these different ways of covering up lead to the problem of integrity which is far more serious than non-compliance with the rules in the beginning. Of course, up to this moment, LEUNG Chun-ying has not admitted that he has not removed the UBWs. But I do not know how he would explain the few examples mentioned by me just now.

The question now is, if he knows that there are UBWs in his house, then what should be done about them? There are many examples which in my opinion show that he has not explained that he is really unaware of the facts. After listening to his explanation, I think that he is aware of the facts. An example is the property which he purchased in 1999. The agreement entered states that the party concerned is fully responsible for any UBWs. Another example is the underground secret room mentioned just now and I would not repeat the details here; he must be aware of the facts. Then on 16 July he said that that when the structure was sealed off, it meant that it was not illegal. As a professional, can LEUNG hope to explain away like this? I have no idea. As an ordinary man, I do not know if things can be explained this way, nor do I know that it can be said this way. If people know that such an explanation is acceptable, then all the UBWs in the world can be handled in this way without any action by the Government. UBWs still exist, but I have sealed them off and covered them up and so they do not exist anymore.

He knows this illegal structure well enough. It would be a problem if he knows about it but talks about it as if he knows nothing. This is a problem of integrity. Why is he so worried and does not admit that he knows about it? I would think that there are only two possibilities. First, it would be too ridiculous if it is found that even the Chief Executive has committed an offence. So he cannot admit that he has broken the law. In order to avoid breaking the laws and regulations, he uses many different ways and words and makes some indirect explanations. Second, a more important point is that there are two things which are more worrying. The first thing is that he attacked his opponent Henry TANG during the election by referring to UBWs. Then he pointed out that it was a problem of integrity. I believe this problem of integrity was the major reason why the popularity ratings of Henry TANG dropped from a rising trend. We know that during the election, there were rumours about TANG's extra-marital affairs and he came out and admitted them. At that time, he had not lost the race yet. But he lost the race because of the incident about UBWs. It turns out that the issue of integrity is involved in UBWs and integrity is a cause of his losing the election.

The second thing is that on 19 June he rang up *Ming Pao Daily*. I assume that he knew about it. This is because according to reports by *Ming Pao Daily* later, he called the editor-in-chief the day before the relevant article was published. Of course, we still have to find out the contents of the conversation. We have to find out the editor-in-chief of *Ming Pao Daily* and ask him what were in the conversation. The editor-in-chief has filed an important statement, saying that when LEUNG Chun-ying called him in the first place, he might hope that *Ming Pao Daily* would not publish anything about the incident. It might also be that he was worried about it. I do not know what the reason for his calling *Ming Pao Daily* was, but the motive for calling *Ming Pao Daily* is very sensitive. I would think that more people should come out and disclose the facts. It is obvious that these two things did affect the result of the election and they are about an important indicator or value, that is, integrity.

So President, I think that the way in which the problem of UBWs is handled is the thrust of the whole matter. More importantly, there are views.....I do not know really how to put it, such as when he was asked why he handled the matter this way, his answer was that it was the first time he had ever handled a problem like that. He gave people an impression that he did not have any such experience. But the media told him later that it was not the case. It

turns out that 10 years ago, he had done the same thing once with his house in Stanley. This is how I would put it, but the contents and meaning may be similar. He might say that it was only because people did not hear what he said so well. Actually, he was saying that it was the first time he handled this himself. Only that he did not say anything about "himself" last time or it was because people did not hear it.

President, about one or two thousand years ago, there was a philosopher who said that a white horse is not a horse. A horse which is white is not the same as a horse. Likewise, things are different when we say, "I handled this" and "I handled this myself". The statement "A white horse is not a horse" can make people speechless in a debate. They will not be able to answer back and the argument sounds very convincing. But facts are facts. Is there any doctor or zoologist who would point to a white horse and say that it is not a horse? Is there any horse which does not have any colour? If this is the case, all horses with colour are not horses. A white horse is not a horse. Neither is a brown horse, a black horse, a blue horse, a red horse or a grey horse. It comes to the final analysis that there are no horses in this world.

President, I think that it is most unfortunate because the political platform as presented by LEUNG Chun-ying in his election is at least similar in some parts to my own political platform. I was in the election race for the Chief Executive at the early stages of nomination in the pan-democratic camp. If we compare the political platforms of LEUNG Chun-ying and Henry TANG, I would think that LEUNG's platform is more acceptable. But it would be unacceptable if he has such a serious problem with his integrity. For how do I know that his words are true or not? How do I know that when the word "myself" is added to his remarks, they will mean a completely different thing, and it is another thing when the word "myself" is left out? Moreover, anything done or said by a person without integrity will certainly be put under the magnifying glass of other people — be they from the opposition camp or the pan-democratic camp, plus those who hold grudges against the Government. As a result, any good deed done by him will become a bad deed and a bad deed will become an evil deed, and an evil deed will become a heinous crime. This is what politics. This is why integrity is so important. If any political figure does not know the importance of integrity, he should not become one and he should step down.

President, I so submit.

MR ALBERT CHAN (in Cantonese): President, many people have read *The Chronicle of Mr About-the-same* during their studies in secondary school. When this Mr About-the-same fell ill, he sought treatment from a vet for cows, saying that medical treatments for humans and cows were about the same. In the end, he could not be cured and died. This is an analogy or satire pointing out that if jobs are done perfunctorily, in the end, one would even lose one's life.

In Hong Kong, there is a "three-nots" Chief Executive and being "three-nots" is even worse than being "about the same". In what ways is he being "three-nots"? By that I mean "not knowing", "not remembering" and "not understanding". He is someone in a high position with enormous powers: He was a Senior Member of the Executive Council for over a decade; he has served in public office for many years and was involved in the drafting of the Basic Law and the consultations on it, and he was already holding important positions even three decades ago, so I do not quite understand why, after becoming the Chief Executive, he can say all the time that he "does not know", "cannot remember" and "does not understand"? How can he lead the 160 000-strong Civil Service? How can he formulate sophisticated, important and major public policies? Regarding the use of public funds amounting to hundreds of billion dollars each year, how can he allocate the funds fairly, impartially and in a reasonable manner? How can he solve such major problems as the deep-rooted conflicts in Hong Kong?

He often says that he "cannot remember", "is not sure" or "does not know" even on simple questions relating to himself. If he really "cannot remember", "is not sure" or "does not know", there are problems with his intelligence and competence, so he should not take this post. If there are no problems with his intelligence or competence, there are problems with his conduct. He is definitely unwilling to face the problems and unwilling to answer questions, so he uses such comments as "I cannot remember", "I do not know" and "I do not understand" in an attempt to cause delays and shun the responsibility. Therefore, no matter if the problem lies in his intelligence, competence or political integrity, he should not continue to serve as the Chief Executive. Therefore, I really do not understand why the royalist camp can still be so shameless as to support this "689".

Recently, I learnt about a joke on the Internet. In fact, it is not a joke but a tragedy. A netizen was once a member of the senior management of the Hong

Kong Professional Teachers' Union. He came across two secondary school students. As we all know, secondary school students would often talk in the street, accusing one another of wrongdoings and of being even worse than a certain person, trying to outdo one another in spelling out one another's misdeeds. In the end, one party accused the other of being worse than "689". All other students dared not utter a word because they could not think of any person or adjective that could be worse than "689". Therefore, at present, in the culture and behaviour of mocking and leasing each other among secondary school students, there is actually nothing worse than being "689". This has now become an adjective commonly used by young people: "You are even worse than '689'".

Do you not think that this is a tragedy and a disgrace for Hong Kong? Such a person has become our Chief Executive. Of course, I played no part in this because from the time he joined the election and from the very first day he was elected the Chief Executive, the People Power has already refused to recognize that this "689" represents Hong Kong people. At that time (in March this year), we already tried to storm into the LOCPG, making clear that we do not accept "Hong Kong communists ruling Hong Kong", or the administration of Hong Kong by this shameless politico because throughout, we consider this person to be shameless. Not only is he incompetent, he also does not have any political ethics. From the moment he was elected, I have called this person a "humbug". There is also a formal record in the reports of the BBC and it was also reported by the international press. At that time, I described him as a "habitual liar", that is, a pathological humbug who is an expert in telling lies. I have known him for at least two decades and found that in the past couple of decades, judging from his political conduct and various comments, each time I saw him speak, including when he was lobbying here for our support of TUNG Chee-hwa's policy of 85 000 flats and his subsequent comments to the mass media, I could see that he lied repeatedly. On many policies and issues, often, what he does is to say things that echo our thinking and when he intended to run in the Chief Executive Election, he wrote many articles that sounded as if he had great compassion for the suffering of the ordinary masses. However, when I read those articles, I found that this person was again lying continually. He always makes his comments based on political needs or the needs of his personal interests or personal situation. He would never say things befitting a human being based on the facts and the truth. Therefore, if this shameless "689" continues to hold this post, he would only continue to bring disgrace to Hong

Kong and stoke the resentment against "Hong Kong communists ruling Hong Kong", something that has not won any approval.

Today, a priest has called on the public to take to the streets on 1 January to demand that LEUNG Chun-ying, or CY, step down. In the past, hardly any clergymen would appeal openly to the public to demand that a certain political figure step down. They have expressed strong views on the policies relating to social justice and on issues relating to social justice, blunders in government actions and unfairness in society. When even clergymen want to demand on 1 January that this "689" step down, so not to mention the prestige of the Government, which is already non-existent, the administration by the whole Government, or even the little — let us not talk about respect as I think the public no longer respect this Government due to the presence of "689" — even the little trust that it should get, or the little trust that would make the public believe that it can lead society or inspire a little confidence among the public, is also gradually vanishing.

Therefore, the only natural decision is to demand that an independent select committee be established. This decision is not about whether or not you defend — I am saying this specifically to Members of the royalist camp — this decision is not as simple as demanding that LEUNG Chun-ying step down, rather, it is about being fair to the administration by the whole Government and also to Henry TANG because the reason that "689" could take up this post was because at that time, he criticized Henry TANG and at that time, the LOCPG, the royalist camp and some members of the pro-democracy camp also fuelled the fire by turning the issue of UBWs involving Henry TANG into an issue of a lack of political integrity. As a result, the whole political climate took an about-turn, eventually forcing the Central Authorities to decide not to support Henry TANG anymore.

At that time, you, our President, was also one of the persons being considered and you also had the opportunity to take over the helm but in the end, due to your somewhat out of joint relationship with the LOCPG, a liar with no political integrity was given the support to take up this post. The turning point of the whole incident was the issue of UBWs and throughout the whole course, the Buildings Department (BD) also took concerted action by adopting very stringent standards and publicizing all the information in a very speedy and arguably very candid manner within a short time, so as to tie in with the election timetable.

Now, the BD is also taking very concerted action by releasing information in the manner of "squeezing toothpaste", that is, disclosing only a little each time. Two reasons were given for this: First, the BD does not have the information, so it cannot say anything because it has no information; and second, the BD cited the ground of not having all information, and it was also possible that "689" did not co-operate or give any reply despite the fact that four letters had been issued to him, so it was only after the mass media had exposed the issue and under the pressure of the mass media that the information was disclosed gradually.

The Secretary for Development said that the BD had adopted certain procedures in accordance with the law and that in forcing him to provide information only after a delay of three to five months, you have also acted in accordance with the law because the law does not specify in how many months the task has to be completed. This is a load of nonsense, so it can be seen that it is really unsatisfactory for an outsider to lead the professionals. These are utterly lame excuses. To find a Secretary with no credibility to speak in defence of the humbug "689" is basically to add shame to disgrace. To find a person with no integrity to proffer explanations for a liar would only make the public distrust the Government even more. The Secretary for Development was the very first person who was demanded to step down. You should have stepped down even earlier than "689" because you were involved in drink driving, then, you even told a bunch of lies. Even when you offered your explanations in front of reporters, you still told a bunch of lies. If the whole process had not been recorded on video, how could it have been proved that you were telling a bunch of lies?

The whole Government is a "humbug Government" and LEUNG Chun-ying, in appointing this group of people, wants to cover up lies with lies. Whoever is good at telling lies will be appointed to higher positions. This is a "humbug regime". Hong Kong people are really in a terrible situation. They are being led by a "humbug regime" and now, the entire Government has given people the impression that it is a corrupt and decadent regime that is really on par with the one on the Mainland. Hong Kong will have been reunited with China for 15 years soon and it is already on par with the Mainland. These two are trying to outdo each other in corruption and decadence and the Mainland Authorities are also like this. The higher one's position is, the more capable one

is in corruption and decadence. Hong Kong is becoming more and more like the Mainland and this is how it is like.

Therefore, how can this be fair to the 160 000 civil servants? If we look in retrospect at the minor problems facing civil servants in the past I am still helping a group of police officers who were forced into early retirement simply on account of some minor problems. Some of them bought properties at the height of the property boom in 1997 and they could not pay off the mortgage, so they had to take out loans from banks or financial companies and all such loans were bound by contracts. When the amounts of loans taken out were large, the senior management said that these people had problems in financial management, so they were forced to retire. Then, some police officers probably did not make themselves very clear during disciplinary hearings — they only did not make themselves clear and if we borrow LEUNG Chun-ying's words, they only "could not remember", "were not clear" or "did not understand", so they should all be reinstated. If the yardstick adopted by LEUNG Chun-ying were used to evaluate civil servants, some of the civil servants who were forced to retire and dismissed could all be reinstated. In that case, was that group of people not very innocent? Some of them were really innocent. After disciplinary hearings and investigations, some of them even lost their pensions and some of the problems were only simple ones. An officer working in the Leisure and Cultural Services Department was dismissed just for borrowing a small amount of money from a tennis coach. I have suddenly forgotten the policy and now, I realize that I am not allowed to borrow money from tennis coaches. I only did not remember, was not clear and did not understand. Since the Chief Executive can be like this, why can the 160 000 civil servants not be like this? Why was it necessary to dismiss these civil servants? This has resulted in some of them losing all their assets and they have almost been reduced to having to apply for CSSA when they are only in their fifties, whereas some of them are already on CSSA because they were dismissed. What about these civil servants?

Therefore, this is not just a problem concerning LEUNG Chun-ying. The loyalty of the royalist camp to LEUNG Chun-ying and its embrace of the LOCPG make them look like lackeys. No sooner had the master pressed the button, all of you knelt down. You have to look at the difficulties facing the 160 000 civil servants. In the past, they had to face difficulties because of such problems, so where is your conscience now? President, a headcount please.

PRESIDENT (in Cantonese): Will the Clerk please ring the bell to summon Members back to the Chamber.

(After the summoning bell had been rung, a number of Members returned to the Chamber)

PRESIDENT (in Cantonese): Mr CHAN, please continue.

MR ALBERT CHAN (in Cantonese): President, the present extent of corruption and decadence in the Government has made the Hong Kong public lose their confidence completely. Many opinion polls indicate that more than half of the respondents believe that LEUNG Chun-ying, or "689", should step down. Therefore, if this situation continues, it will lead to a crisis in administration.

Integrity is very important, is it not? When LEUNG Chun-ying was the Senior Member of the Executive Council, the Donald TSANG Administration requested on several occasions that all senior officials and members of the Executive Council deal with their UBWs, but LEUNG Chun-ying did not deal with his, so such conduct can be described as extremely lowly.

When it comes to integrity, many people have cited the story of WASHINGTON and the cherry tree, but what matters the most is his father's insistence on integrity. Several remarks in this story have attracted a great deal of attention. The reason that the United States has become so powerful and its development in various areas can be so soundly grooved 200 years after its founding is related to the requirements on integrity. One of the remarks is: Honest behaviour is better than having a thousand cherry trees, or one would rather have an honest child (*The buzzer sounded*) than a garden full of cherry trees.....

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

MR ALBERT CHAN (in Cantonese):therefore, this dishonest "689" in Hong Kong must step down.

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

DR LAM TAI-FAI (in Cantonese): President, before giving my speech, I wish to make it clear from the outset that I oppose the establishment of a select committee to investigate the incident of UBWs involving the Chief Executive. The President may ask me: In opposing the establishment of a select committee to conduct an inquiry, do you mean that the truth has already been uncovered within the short span of one week and that all the precise details have come to light? This is not so. What I have learnt in the past week and what I knew in the past have remained the same. I still do not believe that there are no UBWs in his residence and I am still dissatisfied with the unforthcoming explanations of the Chief Executive. I know that many people are also dissatisfied with his explanations.

The President may ask me why I oppose the establishment of a select committee to look into this matter. President, last week, I voted in favour of the relevant motion of no confidence and at that time, I said that even if the motion could not be passed, Members' discussion may still serve as a warning to the Chief Executive on his handling of this matter. As Mr James TIEN said earlier on, it was as though we had flashed a yellow card at him in a football match. Usually, a player getting a yellow card does not have to leave the football pitch immediately. He has to leave the football pitch immediately and cannot continue to play in the game only if he gets a red card. On this matter, I consider it sufficient to give him a yellow card as a warning. I was also able to express my views and fulfil Members' responsibility in monitoring the Government. Therefore, I do not agree with showing him a red card immediately by setting up a select committee to conduct an inquiry into this matter. I consider the punishment of a red card far too serious.

(THE PRESIDENT'S DEPUTY, Mr Andrew LEUNG, took the Chair)

Deputy President, I have to tell Members that in the future, if the Chief Executive makes further mistakes in matters relating to UBWs or makes other mistakes that represent a breach of trust, in that event, I will surely consider showing the Chief Executive a red card right away. As in football matches, I would not care if the foul player is Lionel MESSI or David BECKHAM. Even if it were a football superstar, I would still show him a red card.

In addition, why do I disagree with the establishment of a select committee? Deputy President, I believe you would also agree that in our everyday actions, we cannot go to extremes and should give others some leeway. As the saying goes, "Tolerance makes space". I also hope that this time, a chance can be given to the Chief Executive, so that this matter can draw to a close quickly. One manifestation of courage is to speak up and speak one's mind, and another manifestation of courage is to forgive others. Deputy President, I have been pondering over this matter and analysing it carefully. In the end, I decided to forgive his wrongdoings in this regard.

I wish to give him a chance, so that he can do a good job with the policy address and administration in the future, so as to make amends for his wrongdoings. I also hope that this matter can come to a close as soon as possible, so that he can engage in his proper pursuits again and come out of the impasse, so as to lead Hong Kong and the public in scaling new heights and undertaking more practical tasks that are favourable to people's livelihood and business development.

Deputy President, when undertaking any task, Members all hope that they can keep in view the overall situation. Last time, I voted for the motion of no confidence because that motion was not legally binding and no matter if it was passed or not, it would not lead to the downfall of the Chief Executive or a change in Government, as some political parties and groupings have made it out to be. However, if a select committee is established, a great deal of manpower, resources, financial resources and time would surely be required and society would become even more divided. This would also increase civil servants' workload significantly and all parties would be distracted. At present, we are actually facing many problems, for example, the European debt crisis, the fiscal cliff in the United States and the various problems in the operation of SMEs, so it is necessary for our Chief Executive to lead our civil servants and accountability

officials in doing a good job of preparing the policy address and formulating a blueprint for Hong Kong's overall development in the future.

In the past, the governance by a number of administrations often amounted only to "false, big and empty talks". For example, the Cyberport, the Chinese medicine port and the six pillar industries all started off with a bang and ended with a whimper. I hope that the Chief Executive can outline a blueprint for economic development in his first policy address, so that all parties can share a common vision and foresee Hong Kong's wonderful and splendid future, as well as taking pride in being Hong Kong residents and regard Hong Kong as their home. We should work in concert to perform practical tasks for Hong Kong, so as to make Hong Kong prosperous and stable and enable all people to live in peace and work with contentment.

For the sake of the overall situation and given the instability of the economy, I think this matter should also come to a close. Members should look ahead and stop the internal arguments. They should not continue to wear each other down over this matter. Since the nature of this motion is different from that of the last one, we have to keep in view the overall situation. Therefore, this time, I will state my stance clearly. I oppose the establishment of a select committee to inquire into the UBWs relating to the Chief Executive. If any investigation is to be conducted, we should leave it to the government departments and let civil servants do their job.

Deputy President, I so submit.

MR PAUL TSE (in Cantonese): Deputy President, in the debate on the vote of no confidence on the last occasion, I suggested that this question had to be discussed at three levels: The issue at the lowest level is that of UBWs, the issue at the next higher level is that of integrity, whereas the issue at the highest level is whether or not a conspiracy to usurp someone's place was involved.

If the wrong question is asked, I am afraid we would get the wrong answer. In the same vein, on the matters under discussion on this occasion — the UBWs relating to Mr LEUNG Chun-ying, his integrity and whether or not there is any attempt of usurpation — conclusions have already been drawn. Deputy

President, although last week, formal voting results were obtained in this Council and the motion was negated by 34 votes to 27 votes, if we look at the so-called informal voting intentions, according to the record of this Council, five Honourable colleagues of the Liberal Party abstained, so if they are factored in, the result should be 32 votes to 34 votes. If we also look at Members' stances — in fact, they are very much related to the stances of political parties — the answer couldn't be clearer. Be it the DAB, the FTU or independent Members, including Mr Martin LIAO, who gave his speech earlier on, an overwhelming majority of Honourable colleagues believe that there is a problem with Mr LEUNG's integrity and that his responses were unclear. Therefore, we cannot look at this matter solely on basis of the number of votes. Rather, it is necessary to look at the whole matter, including the views on this matter inside and outside the legislature. At present, we have drawn a very clear conclusion, that is, there are doubts about Mr LEUNG.

Even the survey conducted by an institution commissioned by the Democratic Party also shows that 60% of the public believed that he had covered up something, that is, there are problems with his integrity, only that in respect of the motion of no confidence, the survey indicates that 40% of the people supported the motion, while the rest of the respondents opposed it.

Just now, Mr Alan LEONG said that it seemed public opinion was equally divided but in fact, he has got the problem wrong. Legally, this issue can be divided into the questions of liability and sentence, that is, whether or not there is the need to assume liability and what actions should be taken. On the question of liability, that is, whether or not there is a question of liability and integrity, basically, we have already reached a conclusion, only that there are different views on sentencing, that is, there are different views in society on what action to take with regard to this issue of integrity and how to keep in view the overall situation.

Just now, Dr LAM Tai-fai said that we should attach the greatest importance to the overall situation, which is also the view held by many people. Some people say that we may as well flash a yellow card, impose a suspended sentence or a suspended death sentence, as I have said. And all of these are based on such a view. However, since we have already made such a clear judgment on the questions of integrity and whether or not there is any attempt of usurpation, is it still necessary to expend such a large amount of time and effort to

delve into the details of this issue relating to UBWs? Should we continue to wrestle with these trivialities and consider if there are problems with his integrity again? Should we look into whether or not he has lied and how many lies he has told and how big his lies were, as suggested by Ms Cyd HO? If so, it seems we are looking into questions already answered and it seems we do not believe in the answers and want to do the work all over again. This is precisely the reason for my opposition to invoking the powers under the Legislative Council (Power and Privileges) Ordinance (P&P Ordinance).

As we all know, the powers under the P&P Ordinance should be invoked only when significant public interest are at stake or when government officials have made serious mistakes. There is no need to dwell too much on this. On the question of whether or not government officials have made serious mistakes, at present, I am afraid there is no preliminary evidence suggesting that the relevant departments have been subjected to any suppression or that they are shielding or condoning the Chief Executive, so I think we have not come to a stage where we have to activate this mechanism.

Deputy President, apart from the level of sentencing, another reason for my saying that it is not necessary to carry out further investigation is that no matter how many times you ask Mr LEUNG Chun-ying, his reply would always be the same. Even if you were to ask him if his father is surnamed LEUNG, he would still say, "I was negligent in this matter.". He only has one answer and he is just like an audio recorder. I think that the next time he comes to the legislature, the person who should bring an audio recorder is not Mr WONG Yuk-man but Mr LEUNG because basically, he would always say the same things. Perhaps it would be more appropriate for us to bring along a lie detector.

In sum, it is neither appropriate nor worthwhile to expend large amounts of mental effort, time, money and the resources of this Council to deal with questions that have already got answers. Deputy President, some Honourable colleagues said that we could not behave like Mr About-the-same. However, at present, we are not passing a legal judgment. A legal judgment has to be very precise and be it in sentencing, the standard of proof or the evidence adduced, all information has to be absolutely clear. However, this is a political trial and in a political trial, what matters are the impressions conveyed. The impressions conveyed by this incident are all very clear and all parties have already got the answers. If it is really necessary to make a ruling on each of the charges, for

example, whether or not there was a conspiracy to usurp someone's place, and so on, I believe Mr Albert HO has already done his utmost in this regard, so at the present stage, this Council should not spend a large amount of time to go through the legal proceedings of the election petition again.

Deputy President, an Honourable colleague said that the P&P Ordinance could also serve another purpose. Apart from giving a warning to the person concerned, it would also be possible to learn a lesson. In fact, in this incident, is there any moral to learn? I believe there is none. At present, what is at issue is basically the allegations in relation to UBWs that were carried out before the election, or whether or not there was anything wrong with Mr LEUNG's handling of this matter. I believe no major overall interest of society is at stake, so much so that invoking the powers under the P&P Ordinance is justified.

Deputy President, just now, Mr CHAN Chi-chuen said that it was necessary to do justice to all parties, since the mass media had done so much work, and reporters had published a great deal of evidence by way of texts and illustrations, revealing this matter in exhaustive details to the public, so the public had already formed their own views. In fact, he has put this very well and hit the nail on the head. Nowadays, Hong Kong is a developed society with highly developed mass media and the free flow of information, so proper inquiries are no longer confined to the solemn and orthodox venue of the Court alone, nor is it absolutely necessary to carry them out through this Council. On some issues, in particular, political issues, I believe the mass media have already fulfilled their inherent responsibilities and it can be said that the relevant reports are replete with texts and pictures and exhaustive in terms of detail. On the whole, the mass media have spelt out the relevant matters, the details of the UBWs and the relevant evidence very clearly, so the public are given such an impression. If we investigate any further, I am afraid the public would no longer have the mental energy or interest in their leisure to understand, item by item, when the garden trellis was built and what its size was, when the glass canopy was built, when Mr LEUNG hid the problems, how the basement was like, and so on. I believe the majority public, including the great majority of Honourable colleagues in this Council, will all think that this incident should draw to a close now.

As I said just now, we have made a decision on the motion of no confidence and generally speaking, Members have stated their positions on Mr

LEUNG's integrity or the nature of this incident very clearly. Similarly, on the questions of how to deal with the overall situation and look ahead, whether a red card or a yellow card should be given, Members have all stated their stances clearly. As an Honourable colleague said just now — it was probably Mr CHAN Chi-chuen, and Mr Alan LEONG also said so — whether you believe it or not is up to you. It seems that Members have all formed very clear views and the motion of no confidence last week was an excellent opportunity to express our stances.

Deputy President, I often stress that we have to use different tools to deal with different matters. To give a simple example. If we want to knock a nail in, we would use a hammer and if we want to drive a screw in, we would use a screwdriver. If we use a hammer to drive a screw in and use a screwdriver to hammer a nail in, although it can still be done with great difficulty, the result would leave much to be desired and we will have to redouble our efforts to accomplish the task. In the same vein, when we deal with this problem, I believe the most appropriate course of action is to propose a motion of no confidence and this is already the last resort in dealing with such issues involving a lack of integrity. We do not have to, nor should we, waste a great deal of mental energy, time and resources to deal with each detail and I have already talked about this point just now.

In the same vein, some Honourable colleagues said that they wanted to activate the process of impeaching the Chief Executive. Although up to now, my attitude towards this remains open, I think this matter cannot be dealt with easily through the impeachment process. Again, this is to use an inappropriate tool for a task. I am afraid a relationship between this incident and whether or not Mr LEUNG was involved in any serious breach of law or dereliction of duty cannot be established. His personal integrity and his approach in handling UBWs is his own business. The truly appropriate course of action is for Mr Albert HO to lodge an election petition and Mr LEUNG Chun-ying has already gone through such a procedure.

Deputy President, there is still some time left, so I find it necessary to raise one point. Mr Martin LIAO mentioned the matters relating to the select committee to study issues relating to the West Kowloon Cultural Development, so I must declare my interest. I was also one of the members of the select committee concerned. My criticism was that the select committee concerned made its conclusions after a short span of only two months. We did not carry

out any in-depth investigation into such a serious incident relating to Norman FOSTER, yet we want to investigate the incident of UBWs relating to Mr LEUNG Chun-ying, so this is not fair to the person concerned. I must add one point. Since at that time, the term of the Legislative Council would expire soon and the incident relating to Norman FOSTER did not fall within the ambit of the select committee concerned, it was inappropriate for the Legislative Council to draw any conclusion.

Deputy President, in sum, if the questions are asked clearly and the nature of this incident has been correctly defined, and as I said earlier on, since we have already given a clear moral judgment on this matter, I am afraid we should not take a retrogressive step by invoking the powers under the P&P Ordinance to carry out an inquiry, nor would it be appropriate to do so. Whenever the use of public funds is involved, we must use the funds appropriately and get our money's worth. Therefore, we should strive to ensure value for money. Before invoking the powers under the P&P Ordinance to carry out an inquiry, we should also evaluate if it would be worthwhile and worth the money to do so. As I said in the example cited by me just now, there is an English idiom about "flogging a dead horse", and in this incident, the horse is already dead. Alternatively, in Cantonese, an even more apt expression is "it is pointless to pour hot water on a dead pig", meaning that it is not necessary to do so as the pig would not have any response in any way.

On this issue of integrity, as a Member of the Legislative Council, I am duty-bound to reflect the views of the public and talk about my judgment. With regard to this incident, I have voted in favour of the motion of no confidence and made a judgment on political integrity. On what actions to take with regard to the judgment, I have also put forward a more pragmatic proposal for consideration. Mr LEUNG can withdraw in an orderly manner having regard to the overall situation: First, one course of action is to leave office after two years, or he can remain in office for a longer period of time but he will not seek re-election after the end of his first term. This can be described as a suspended death sentence or a suspended sentence and also one of the approaches. In this regard, as an experienced political figure, Mr LEUNG has many people around him to give him advice — of course, some of the views may be beyond his control — so he should know how to handle this problem.

Under the usual democratic political systems that we have knowledge of, if any motion of no confidence is passed, it would certainly give rise to some

consequences, even if such consequences are not binding in law. However, after the motion of no confidence on the person concerned has been passed, he ought to know what course of action to take. In the same vein, although for the time being, a clear system has not been put in place under the establishment in Hong Kong and there is no mechanism for motions of no confidence, if Mr LEUNG has gained insights into the situation and attaches importance to Hong Kong's overall interests, and if he knows how clear the informal voting intentions on the motion of no confidence are, I believe he should make appropriate and wise arrangements. Conversely, if Mr LEUNG still insists on using "hypocritical rhetoric" and keeps repeating his answers, and if he is still obstinate and self-opinionated and does not think that he is at fault, I am afraid this would be a most fitting lesson for him because the suspended death sentence may turn into a death sentence at any time.

Thank you, Deputy President.

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

MR ABRAHAM SHEK (in Cantonese): Deputy President, first of all, I wish to respond to Secretary Paul CHAN's comments. Earlier on, he spent more than 20 minutes on explaining the work done by the Government, in particular, the BD, in the past few months, including the investigations into the homes of Henry TANG and the Chief Executive and other premises, and I think he has given an excellent account. Both the officers of the BD and other government officials were able to exert their level best in fulfilling their responsibilities without bias or partiality, so I absolutely agree with and support his comments. It is based on such a belief that many civil servants in the BD are doing their jobs well. Hong Kong's success relies entirely on this group of excellent civil servants of ours.

In addition, I also hope that all matters could be dealt with fairly, and it is only right to do so. Apart from the UBWs relating to Henry TANG, a number of Secretaries are also involved in this kind of problems. Just now, a number of Members also made the criticism that even Members themselves were involved in the problem of UBWs. As reported by the press, the Secretary for Transport and Housing, Prof Anthony CHEUNG, and Dr KO Wing-man, Mr Gregory SO, and so on, were also found to be involved in UBWs but they carried out the

restorations very quickly. The former Chief Executive was also involved in UBWs but he removed them immediately. The incumbent Chief Executive is also involved in UBWs and he built a wall to conceal the unauthorized structure immediately, so that it could no longer be seen. They all had the opportunity to rectify their UBWs.

I know that officers of the BD are doing a very good job and they are very lenient. So long as all these people remove their UBWs, that would do. However, has the BD treated Henry TANG fairly? For how long has the BD bothered him? Since February, Henry TANG has not had any chance to he can deal with his UBWs properly and he also wants to do so quickly, so that he can go on to visit the North Pole after visiting the South Pole and does not have to care about this matter anymore. I agree that the BD has to treat all people fairly, so it also has to treat Mr Henry TANG fairly. I think the Secretary has to follow this up. Mr Henry TANG made a mistake in the past but so long as he deals with it properly, it does not matter. The BD has to treat Henry TANG with the same attitude as it treated a number of Secretaries, the incumbent Chief Executive and the former Chief Executive, and only in this way can it be considered fair. Deputy President, this is the first point that I wish to make.

Second, just now, some Honourable colleagues criticized some of the select committees established by this Council. Deputy President, I have served as a Member for over 12 years, or almost 13 years. I have joined several select committees established under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance). The members in these select committee came not just from the pro-democracy camp or the DAB, but also various political parties and groupings. Mr Albert HO was right in saying that we had been fair, open and serious in our handling of matters. A Member said just now that he could not speak his mind freely after joining these select committees and some newly-elected Members have not had the chance to join such select committees. Just now, a Member criticized Paul, saying that he was being unfair. What is being unfair? How was he unfair? There are hundreds of televisions broadcasting the meetings here live. Deputy President, I hope Members will respect the legislature.

Today, we have spent several hours discussing whether or not it is necessary to invoke the powers under the P&P Ordinance. The aim is to make it

clear that we would not let the Legislative Council approve invoking the powers under the P&P Ordinance lightly. It is our nuclear weapon. Why do we have to deploy our nuclear weapon? For the sake of public interest.

Just now, a Member voiced a criticism, asking why it was necessary to deploy this piece of nuclear weapon in the incident relating to the West Kowloon Cultural Development. The work of the relevant Select Committee only lasted two months and because of this matter, we were unable to look into other matters. What were the duties of this Select Committee? Paul was right in saying that at that time, our duty was to look into whether or not Mr LEUNG Chun-ying, before being elected the Chief Executive, had made omissions when declaring his interests in relation to the West Kowloon Reclamation Concept Plan Competition. We conducted a very fair inquiry and came up with some excellent results that were accepted by the person concerned, who said that the Select Committee had given him the chance to state the facts. Therefore, the establishment of the relevant Select Committee under the P&P Ordinance was justified.

Therefore, if Honourable colleagues wish to criticize any of these some Honourable colleagues said that after joining a select committee, they could not speak their minds freely, but how could that be? Deputy President, after the inquiry into the Lehman Brothers Minibond Incident was completed, I wrote a minority report and that was an unprecedented move. I wrote that report because I disagreed with the results of the inquiry and Members also accepted this. We cannot invoke the powers under the P&P Ordinance for simple reasons, and we must do so solemnly. Deputy President, this is a very important point, so I have to say it.

Today, I will not support this motion moved by Mr LEE Cheuk-yan on invoking the powers under the P&P Ordinance to investigate LEUNG Chun-ying. What do we want to investigate? Deputy President, it is for certain purposes that select committees are established. Paul was right in saying that the facts were already here and that the 14-page statement had already spelt out what he had done. LEUNG Chun-ying did not say he had lied. That 14-page statement spelt out what he had done, so it is not necessary to spend time on investigating what he did and how he did it because he has already admitted to everything. Deputy President, it is human to err. Since he has admitted his mistakes, it is only necessary to rectify his mistakes and that would do.

Deputy President, I wish to read out Article 47 of the Basic Law, "The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties. The Chief Executive, on assuming office, shall declare his or her assets to the Chief Justice of the Court of Final Appeal of the Hong Kong Special Administrative Region. This declaration shall be put on record."

Deputy President, on 1 July, our State leaders came to Hong Kong to officiate over his oath taking. At that time, it was already confirmed that in accordance with Article 47, he would be fine. Deputy President, if our State leaders confirmed that under Article 47 of the Basic Law, his integrity was acceptable, why do we still want to say that there are problems with his integrity now? Wherein does his problem of integrity lie? What else do we have to say? Here, the 70 of us say that "this is correct" or "well said today" because Mr LEE Cheuk-yan said here, it is "everyone saying whatever one wants" and Members can say whatever they like.

Here, we have manifested the freedom of speech in Hong Kong by speaking freely and later, Members will have the opportunity to argue or debate. He said that he wanted to establish a select committee to conduct an inquiry into LEUNG Chun-ying, but the Council meeting today can already serve such a purpose. So many Members have spoken and each of them can have a maximum of 15 minutes. All of them have talked about what they want to be investigated. Is he guilty? If you think so, he is. If we think that his wrongs can be forgiven, then nothing would happen to him. In that 14-page statement, he admitted to having carried out UBWs, but some people said that he had got the office of Chief Executive by cheating. However, he did not cheat me because I did not vote for him. I have said very clearly that I voted for Henry TANG.

Deputy President, when I made my decision, the UBWs did not mean much to me. Even with regard to the same incident, each person may have different views and this depends on how you look at it. To me, UBWs are UBWs. I can tell Members that such simple things as changing the position of a socket at home are UBWs if they do not conform to the plan. The English term for "僭建" is clearer. When people in other countries draft this kind of legislation, the term used is "UBS", that is, unauthorized building structure.

However, the UBWs in LEUNG Chun-ying's residence are large-scale ones. No matter if they are large-scale or small-scale, UBWs are UBWs and the point is that he has admitted to them in his 14-page statement. I have read the statement very carefully and gained some understanding of the situation. At that time, he lied but he also admitted to being negligent. As Mr Albert HO said earlier on, he said he signed a waiver of requisition when buying the property, meaning that he accepted the existence of UBWs at that time. It was based on his friend's advice that he believed the property was acceptable. He believed in the lie of that person but now, he is deceiving himself. I believe in this point raised by him.

Therefore, integrity is not a fact but a concept and it depends on in what way one measures it. Even if this motion is not passed today, I can tell Members that in the next four years, he would be more miserable than we would be because he has to solve this problem. Therefore, let us give him a chance to do a good job of administration. He has to do a good job of the tasks that he is charged with under the Basic Law, but how can he do a good job? Hong Kong practices the separation of powers but the three organs can also co-operate. It all depends on how we move forward into the future. I told Dr LAM Tai-fai to be careful when he was to speak today, saying that he must not speak indiscreetly. It did not occur to me that he was actually an expert in football who would use yellow card and red card as an analogy. I love to hear him speak the most. He looked at this matter from the perspective of magnanimity, so he is forward-looking. On all matters, we actually also have to be forward-looking.

Deputy President, the Public Accounts Committee has to call meetings because it finds that many government departments have made mistakes. Although we level criticisms, we also give them chances to make improvement. The other day, Tai-fai quoted from the Buddhist scriptures and he said it very well. Today, I wish to quote a line from the *Diamond Sutra*. Mr LEE Cheuk-yan, I am a Catholic, so I should quote the *Bible* but the following line from the *Diamond Sutra* (*sic*) is very good: "Do it, and then forget it; the end of the day is the end." Now, it is true that we found his involvement in a lot of UBWs but since we have already had the chance to discuss this matter to our heart's content, we may as well put this matter down now. Why is it necessary to pursue it? We have to be forward-looking, and I think this is very important. For the sake of Hong Kong's future, Members should look at how we can do a good job of our tasks: To campaign for the rights to which workers entitled, to

enable people living in caged homes to be allocated public housing at an early date, to enable elderly people to lead more decent lives in their old age and to offer concessions to people with disabilities.

Deputy President, these are our tasks, so why is it necessary for us to make further criticisms and re-open the wounds? It is human to err, and so long as one changes one's ways after making mistakes, that would do. Earlier on, I read out Article 47 of the Basic Law. As Members, we have to uphold the Basic Law. Since our State also accepted the oath taken by him in accordance with the Basic Law, I think we also have to give him a chance. Thank you, Deputy President.

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

(No other Member indicated a wish to speak)

SECRETARY FOR DEVELOPMENT (in Cantonese): Deputy President, I will not repeat what I have already elaborated in my opening speech concerning the explanation which I have given on the policy of the Buildings Department (BD) on enforcement and action regarding unauthorized building works (UBWs) of senior government officials or celebrities in the community. I have also talked about some of the queries and even accusations made by Members. However, I have to respond to some requests made or misunderstandings found in the speeches of several Members.

First, when Mr Ronny TONG spoke earlier, I was not in the Chamber because I have a busy schedule today and I have not had my lunch before coming to the Legislative Council for the meeting. So when it was some time past two o'clock, I was very hungry and I went downstairs to the canteen for a serving of spaghetti in soup. Mr Ronny TONG named me when he demanded that I should respond to a number of concerns to him and now I would like to do so.

First, he mentioned that in April 2011, the Development Bureau changed the scope of actionable UBWs. Roughly, what he meant was — and if I have not misunderstood it — the scope was enlarged and some items for enforcement action were added. Therefore, for actionable UBWs, the BD will not issue any letter and if it is considered that action should be taken, then a removal order

would be issued at once. In this way, action is taken. I must point out that Mr Ronny TONG might have some misunderstanding here. Deputy President, in reply to a written question raised by Mr LEUNG Kwok-hung on 28 November, we already explained and I quote: "To enhance building safety, the BD has since April 1 of last year adopted a revised enforcement policy against UBWs by extending the coverage of actionable UBWs to include all UBWs (except minor amenity features) on the exterior of buildings". The reply then says, "such as those on rooftops and podiums as well as those in yards and lanes of buildings" We would call these upper, middle and ground levels of a building. It goes on to say, "irrespective of risk to public safety or whether they are newly erected. According to the revised enforcement policy, the BD is in effect taking enforcement actions against most actionable UBWs found on the façade and exterior of a building. The BD will issue advisory letters, advising the owners to rectify the irregularities of the properties as soon as possible. If the owner is not able to commence the rectification works within the specified period, the BD will issue statutory orders requiring the owners to carry out the necessary works to rectify the situation, and register the orders in the Land Registry. For owners who do not duly observe the statutory orders, the BD will consider instigating prosecution actions. Regarding non-actionable UBWs, the BD will, depending on the situation, serve advisory letters or warning notices requesting the owners to remove the UBWs voluntarily." End of quote.

Deputy President, put simply, the BD will carry out an inspection after receiving reports or referrals. After such inspection, if it is confirmed that there are UBWs, then the BD will see if these belong to the actionable category. If they do not, the BD will issue advisory letters or warning notices. If the UBWs are actionable, the BD will not issue an order to remove the UBWs at once. It will first issue an advisory letter and after this letter is issued, if the owners concerned do not take any appropriate action and if repeated advisory letters are ignored, the BD will issue a removal order.

If the BD staff find on making an inspection that there are actionable UBWs and with risk, or if the inspection is part of a large enforcement exercise, then sometimes the BD will issue a removal order at once. Therefore, as I have said, Mr Ronny TONG has some misunderstanding on that point. And it is because of his misunderstanding that Mr TONG questioned the determination of our enforcement action regarding House Nos. 4 and 5 at Peel Rise. It is because the BD has not issued a removal order at once. Instead the BD has issued

several letters. As I have just explained, these are advisory letters requesting the owners to take action. This is in line with the normal practice of the BD. As for the unauthorized space underneath House No. 4, as I have pointed out in a reply to a question asked in this Council and also in a statement issued by the BD, the BD has issued a letter to the Authorized Person (AP) of the owner on 3 December to ask him to submit a proposal for rectification to the BD and works can only commence after consent from the BD is given.

Another point raised by Mr Ronny TONG is that in handling the suspected UBWs regarding the servant quarters of the lower basement floor of House No. 4, the BD seems to have practice shielding. This is because he thinks that when the BD carried out an inspection at the end of June, it should have reasonable doubt that there was an unauthorized structure of a servant quarters behind that wall and the BD should have taken immediate action. Deputy President, I would think that this argument is not fair. Why? It is because ever since Mr LEUNG Chun-ying made a statement on 23 November, much information has been disclosed and that includes the disclosure in the statement that at the lower basement floor of House No. 4 there is an extension and that extension is later sealed off by a wall. It is with such information against the background that explains Mr Ronny TONG's suspicion. And he seems to be justified. But Members must note and I hope to point out now, that a few months ago, that is, on 26 June, when the BD inspected House No. 4 after media reports, the information available to the BD was not so comprehensive. At that time, according to media reports, there was a servant quarters which is an unauthorized structure in House No. 4. But there was no concrete evidence. In line with its established practice, the BD tried to confirm the suspected unauthorized structure as reported by the media, that is, the servant quarters. The result was that they did not find anything. About the location of the wall which does not entirely match with the plans, as the BD could not confirm whether or not the wall was an unauthorized structure and it was thought that there was no obvious danger posed by the wall to the surroundings, the BD then followed its established practice and issued a letter to the AP concerned and inquired about the purpose and structure of the wall.

As I have said before, the BD has to handle a large number of UBW cases and owing to resource considerations, they have accorded priorities and determined whether or not there is any danger. So unless it was the view of the BD staff at that time that there was an obvious danger, they would then follow the

established practice and request the owners concerned to provide information to the Department before deciding on the next step to be taken.

As a matter of fact, when the owner in his statement of 23 November explained that there was an extension at the lower level of House No. 4 and which was hidden by a wall, staff from the BD carried out an inspection based on the information given. They had made a request at once to open a passage in the wall for their inspection. This was to facilitate follow-up action. Therefore, I think that while Mr TONG can certainly not agree with the judgment made by colleagues in the BD at that time, he cannot on basis of some information obtained afterwards say that the BD colleagues have been unfair in their enforcement action or they have practised shielding.

Deputy President, next I would like to respond to a number of points raised by Ms Emily LAU earlier. What Ms LAU tried to say is that both the Development Bureau and the BD have not explained clearly the issues concerning the UBWs. And she also held the view that when we gave an explanation, it seemed that we stammered and hesitated and we did not want to reveal the truth. Deputy President, I must point out that with respect to this case of UBWs, both the Development Bureau and the BD have provided information and given explanations to the Legislative Council and the public many times and in different ways. Ever since the incident has occurred, representatives from the Development Bureau and the BD have attended meetings of the Development Panel of this Council and answered written and oral questions from Members on numerous occasions. An example is last Wednesday, that is, 12 December, when Dr KWOK Ka-ki raised an oral question. After I had given a reply, he was of the view that my reply was not complete. In the afternoon of that day, he wrote a letter to me asking me to provide fuller information. Even though I had to go to Shanghai on official business from 13 to 15 December, we tried our best and gave a reply to Dr KWOK in the evening of 14 December. Last Sunday, colleagues from the Development Bureau and the BD were prepared to go to the meeting of the Development Panel and offer a detailed explanation. It was unfortunate that the meeting aborted. So it cannot be said that we have evaded or dodged this issue.

Deputy President, the third point is, as Mr Alan LEONG has said, that he finds it hard to accept what we have said in the reply given to this Council. That is, the wall underneath House No. 4 has been assessed by the BD and it is found

to be compliant with the requirements of section 41(3) of the Buildings Ordinance and it is a kind of works which does not require any approval from the BD before the works can be carried out. Likewise, when the works are completed, there is no need to submit any paper to the BD. Therefore, it is the view of the BD that the wall does not contravene the Buildings Ordinance. In the judgment of the BD, the wall is a kind of works which does not require any approval. But that does not mean that the BD thinks that the wall is the best solution in respect of the space created by the unauthorized structure. However, there are questions like what was the wall used to be like, whether or not there should be objective criteria to determine whether approval should be given before works commence, or if reports should be made after the completion of the works, and so on. In the reply we gave to Dr KWOK Ka-ki on 14 December, we had two attachments, that is, Appendix I and Appendix II. It is specified therein under what circumstances works will be exempted from seeking approval and under what other circumstances will works not be subject to any regulation and no papers are required to be submitted when the works are completed.

Deputy President, lastly, I would like to respond to the mention of the case in York Road by Mr Abraham SHEK. As a criminal investigation is being conducted into that case now, I do not think I should give any comments here. Thank you, Deputy President.

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): Deputy President, I am grateful to Members for their speeches. Many Members have mentioned that the motion today is related to the motion last week. Last Wednesday this Council debated and negated a motion of no confidence in the Chief Executive. I believe this decision is in line with public opinion. In consistency with the voting result last week, Members should vote against this motion proposed by Mr LEE Cheuk-yan today.

The Chief Executive has made a detailed explanation in respect of the UBWs in his properties. He has allowed reporters to visit and take photos in his residence on the Peak. He has also responded to questions from the media many times and come personally before this Council to answer questions from Members and to give an account of how the matter is handled.

The Chief Executive has admitted in public that he has omission in handling UBWs and he has not been clear in giving an account of it. In this

connection, he has made solemn apologies to the public on many occasions and undertaken to exercise extra care in future in this respect. He would uphold integrity and serve the public. All these show that he has addressed the problem and is committed to shouldering his responsibility. He also knows the importance of public confidence in him and his government.

Since the end of June when there were reports that there were UBWs in the property owned by Mr LEUNG Chun-ying on the Peak, he has always made himself available and co-operated with the Buildings Department (BD) in its inspections. This shows that he fully respects the independent and professional judgment by the BD. For anything which is considered problematic by the BD, he would make a serious effort to rectify. At the end of November this year, when the judicial proceedings regarding the election were over, the Chief Executive issued a statement to give an account of the matter immediately and he had instructed Authorized Persons to take the initiative to meet with the BD and follow up the handling of any structures that might have problems.

As for the BD, all along it has been acting in an impartial manner and according to the law in following up the case concerning the Chief Executive. The BD is a professional enforcement agency and it upholds the excellent tradition of the Civil Service. It acts according to established systems and rules and with respect to various kinds of undeclared structures, the BD will handle them according to its professional judgment. It will never compromise its enforcement on account of any person's status. The former and incumbent Secretaries for Development have not given any instruction regarding the enforcement action taken by the BD on any case. I wish to emphasize here that the SAR Government lends its full support to the BD in the impartial discharge of its duties.

As Members such as Ir Dr LO Wai-kwok and Ms Starry LEE have pointed out, the Civil Service in Hong Kong has always discharged its duties in a professional manner. And it is most unfair when some people act in the absence of substantiated evidence and engage in mere speculations and guesses, and query the professionals in the BD for the so-called "a deliberate covering up of the truth", or "shielding the Chief Executive", and so on. Such serious allegations stemming from political motives are made of a professional department. This is most regrettable and shows a lack of respect for civil servants who have always been loyal to their duties.

A number of Members have pointed out that on 30 November a joint declaration was made by the Buildings Department Local Building Surveyors' Association and the Buildings Department Survey Officer Working Group. The joint declaration states that the professional and technical staff of the BD are determined to uphold their professional conduct and irrespective of the status of the owners of properties, they will act in an impartial and non-discriminatory manner in carrying out enforcement actions. As Mr Tony TSE has said, if the Legislative Council agrees to appointing a select committee to conduct an inquiry, this amounts to an unfounded query against the professional conduct of the professional departments and civil servants concerned. This kind of unjustified accusation is totally unwarranted. I implore Members to respect the facts and show their determination in opposing the proposal to invoke the Legislative Council (Powers and Privileges) Ordinance to inquire into the handling of the properties of the Chief Executive by government departments.

On 7 December, Mr LEE Cheuk-yan proposed in the House Committee of this Council to invoke the Legislative Council (Powers and Privileges) Ordinance to conduct an inquiry, saying that Members should not let the Chief Executive get away with this easily. This proposed was negated by a majority of Members. Now Mr LEE Cheuk-yan has proposed the same motion today and in the debate I heard many Members point out that we should not get ourselves entangled in this problem forever and it is time to put an end to it. It is the hope of the people of Hong Kong that the Chief Executive can lead the Government, offer practical solutions to problems found in society and strive for the well-being of the people.

After his assumption of office, the Chief Executive has been working hard with his team of accountable officials and colleagues in the Civil Service. He has put the people in priority consideration and seized every opportunity available to realize his election pledges. In less than six months since he has assumed office, he has introduced a number of measures aiming at improving the welfare of the people. I am sure the public at large can fully appreciate the efforts made by the Chief Executive and form an objective view of his work.

Next month, the Chief Executive will deliver the first policy address of the present-term Government. During the consultative period for the policy address, the Chief Executive and his team of accountable officials have attended many consultation sessions held in the districts. They met with people from different

sectors across society and heard what the people expect the Government could do for them. In sum, the people hoped that the Government can offer some solutions to the several major problems of land and housing, assistance to the poor and the elderly and environment and conservation. The Government is also expected to promote the sustainable economic development of Hong Kong and strive for a better future for Hong Kong and our next generation. I am sure that it is the hope of the public that all these disputes and internal arguments shall stop and all the people can unite in their love for Hong Kong.

With these remarks, Deputy President, I implore Members to oppose the motion proposed by Mr LEE Cheuk-yan.

DEPUTY PRESIDENT (in Cantonese): I now invite Mr LEE Cheuk-yan to speak in reply. After Mr LEE Cheuk-yan has spoken, this debate will come to a close.

MR LEE CHEUK-YAN (in Cantonese): Deputy President, just now, Members have given many reasons for not invoking the powers under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to conduct an inquiry and I find one of the reasons unacceptable, and by that I mean the reason given by Secretary TSANG Tak-sing and Mr Tony TSE just now. Can they stop using civil servants as the shield? Secretary TSANG, what we demand now is the conduct of an inquiry into LEUNG Chun-ying, not civil servants. Civil servants are impartial, hoping to do their job well and uphold their professional ethics, but how do we know if they have been subjected to political influence or not? If they have been, this is not fair to them and would make it impossible for them to do their work in an impartial and professional manner. You people have made my proposal to invoke the powers under the P&P Ordinance appear like a proposal to investigate civil servants. It is LEUNG Chun-ying that we want to investigate, so I call on Members not to shift the focus and resort to such underhand tactics. I have to tell all members of the Hong Kong public clearly that we want to investigate LEUNG Chun-ying, not the Buildings Department (BD). However, for no good reason, Members have turned the whole matter into an investigation into the BD rather than LEUNG Chun-ying.

In fact, I think that in the handling of the whole matter, there is a major problem with the senior management of the BD on one account and what is it? Of course, just now, the Secretary for Development at present, the most troublesome thing is to listen to them speak because given their "hypocritical rhetoric", there is no knowing if what they say is true. They said that the Secretary for Development had not given any instructions to the BD — they are really good at this because it is probably true that no instructions were given — but was there any discussion? Although no instructions were given to the BD, perhaps discussions were held with the BD? It would already be enough to have discussions. The Secretary may say that no instructions were given to the BD and discussions were held with it.

In fact, where is the problem? Even now, I still do not understand why, despite having issued four letters to LEUNG Chun-ying, the BD has not given any account to the public on the letters issued to him. Why has it not done so? When officers of the BD entered the property to carry out an inspection, they could see clearly that there was a wall. Perhaps the claim of the Department was right because they had no idea what was behind the wall, but why did they not ask the property owner about it? The BD said that it had to wait until 23 November before carrying out an investigation into the matter but at that time, why did it not tell the public that it had already issued letters to LEUNG Chun-ying requesting him to account for the existence of the wall? In fact, enquiries were made, so it is not true that no enquiries were made. If no enquiries had been made, the Department could have muddled through but there were enquiries about why there was a basement there. But the Department claimed that there was none. It turned out that there was a wall there and it is tantamount to someone digging a cave underground and putting a cover on it, then saying that there is no cave. The Department saw this cover and the natural action to take should be to lift the cover for a look, but it did not do so. It should have told the public, but it did not. I do not mean to cast doubts on the officers of the BD because this is not a problem that can be solved at the level of the officers in charge of investigating or handling the case. It can be solved only at the level of the Director or the Secretary for Development. Why is it that so far, we still do not have any answers? Therefore, I call on Members not to use the officers of the BD as the shield in their attempt to defend LEUNG Chun-ying. I find this totally unacceptable.

In addition, many Honourable colleagues also voiced a view just now, that is, they believe that he has surely lied but they do not intend to carry out any investigation. I am very disappointed by Dr LAM Tai-fai. Initially, I expected an excellent speech from him, but little did I expect that today, he has turned into I could see that his comments did not come from the bottom of his heart and it looked as though he could not speak his mind freely. His body language gives people such an impression. What did he say? He said that now, there is no ground for flashing a "red card". Last week, we made it clear that we had no confidence in him. Then, he made a comment I consider very much questionable. He said that the motion last week was not binding but the one this week is. Buddy, he would do something only when a motion is not binding but when it is binding, he would do nothing, so he is inconsistent. If he thinks that there is a problem, he should all the more support a binding motion — perhaps he was bound by someone and ordered to toe the line, so there is nothing he can do. Last time, he made comments like "he would get his reckoning" and they were very strong ones. However, in the end, he was ordered to toe the line and could not speak any further. Sometimes, I also have a little bit of sympathy for him, but I think Hong Kong people are really miserable because we have handed over politics to this kind of people.

In fact, it is not our intention to show him a "red card". What we demand now is just to conduct an inquiry. We have not even given him a "yellow card". LEUNG Chun-ying has obviously pretended to be fouled and taken advantage of a chaotic situation in this game but we only wish to investigate if he has pretended to be fouled. If it was confirmed after investigation that he had indeed pretended to be fouled, we would then decide what action to take but now, even conducting an inquiry is not allowed. I think if Members consider him guilty, they should conduct an inquiry because if he is guilty, there are problems with his integrity and if he has cheated, then, he has to face the Legislative Council and the public.

A number of Honourable colleagues spoke on the motion last week and among them, Mr Andrew LEUNG said, "Mr LEUNG Chun-ying has not capitalized on this opportunity to address the queries of Honourable Members as well as the general public". It was you who said that, Deputy President. Mr Abraham SHEK said that he was "mean with the truth"; Miss Alice MAK said that it looked as though he had "only disclosed the facts bit by bit one day and then the next just like people squeezing a tube of toothpaste", whereas Mr

Jeffrey LAM said, "..... the Chief Executive has replied to my question in one single sentence only. Many people are still querying the Chief Executive, saying that throughout the whole process", he had not given an account. It can be seen that all Members have doubts about him. This being so, when Members have doubts about him, why do they not even agree with launching an inquiry?

If Members have queries, they should conduct an inquiry. Of course, his fans of the most loyal type do not have any doubts and believe that he was only being negligent, and they even repeated his claims. For example, Secretary TSANG Tak-shing said earlier on that he had promised to be more cautious in the future. That means he would be smarter and more cautious when telling lies, so as to avoid being seen through, but all this only amounts to acting cautiously rather than being honest. Therefore, Members must look at the nature of this matter, that is, it is now necessary to give a cleaner Government and culture back to the Hong Kong public. Today, I wish to ask Members: Given that he has told so many lies, can you tell your children, kids and the young people in Hong Kong that lying is permissible, that there are no problems, that we would not carry out any investigation and that we would just let him off and get away with it because Hong Kong has to move forward? Do you want to do so?

As regards the course of action taken by the DAB, it can even be considered an established practice. Each time a proposal to invoke the powers under the P&P Ordinance was put forward, they would say that it was not necessary to deploy the "Imperial Sword". With regard to the incident of "covetous TSANG", they also said that it was not necessary to deploy the "Imperial Sword" and now, they also say that it is not necessary to deploy the "Imperial Sword". I believe they would never draw the "Imperial Sword", particularly to investigate matters that they do not want investigated. It did not matter that an inquiry into the Lehman Brothers Minibond incident was conducted because it had nothing to do with them but in this incident, they have to defend the "emperor". Each time when we wanted to investigate those "emperors", they would not let us do so. They would then ask if there were other options. How possibly can we have alternatives? Now, there are no other options. He has come to this Council to answer questions on two occasions, but Members remain dissatisfied. Since Members are dissatisfied, if we do not invoke the powers under the P&P Ordinance, what options do we have? The only option is their option, that is, the option of condoning and abetting the wicked and choosing to put the matter aside.

They claim that the P&P Ordinance is a political tool that would make heads roll. This tool is not a political one *per se*, but one to find out the truth. All Members can take part in the hearings together. It is not the case that only Members of the pan-democratic camp can convene the meetings of select committees, rather, all Members can take part in the inquiry and they can also play a part. This tool can be used by all Members to see how he is going to respond and defend himself. Therefore, if Members are reluctant to conduct an inquiry, this is actually to condone and abet the wicked, essentially a move to harbour wrongdoers.

(THE PRESIDENT resumed the Chair)

There is yet another claim that pits people's livelihood against integrity. Integrity? Just forget about it and let him go. Let him implement his policies on people's livelihood. However, Members must not forget one point. It is practically impossible for any government without integrity to implement policies on people's livelihood. All of us must understand politics along this line. Why is it impossible for a government with no integrity to implement policies on people's livelihood? Because such a government has no moral will and will not be able to implement policies, so when controversial issues arise, it dares not do anything. Of course, uncontroversial ones can be implemented but when controversial ones are involved, it dares not deal with them and this is the situation that I fear the most — Secretary Matthew CHEUNG is present — the issue of standard working hours is controversial, so will the Government refrain from taking it forward? Is the Government lying?

LEUNG Chun-ying stated in his manifesto that he will "examine issues relating to legislative proposals on standard working hours", so has that become a lie? He may say that since controversies have arisen, he dares not do this anymore. This is because on the issue of UBWs, so many people in the business sector have come to his defence that he may have owed the business sector too much favour, so is it possible that legislation on standard working hours would not be taken forward anymore? It can be seen that even the policies on people's livelihood may be sacrificed on account of this matter. When the Government has no moral will or integrity, it will not be able to take

forward policies that would truly benefit the public, rather, its legs would be tugged from behind because of its own problems. Therefore, Members must not think that integrity can be sacrificed and that it would do just to ensure that a good job with people's livelihood is done. This is not so. When the Government lacks integrity, it cannot do a good job even with policies relating to people's livelihood.

In fact, I already have an idea of how the voting results today would be like. Members also know. Many people say that we should let LEUNG Chun-ying continue with his journey as early as possible. In fact, I think what happens today signifies integrity is dead. Now, we really may have to bow three times to pay tribute to the demise of integrity in Hong Kong. First bow, second bow and third bow. Integrity is dead. If Members do not care about integrity and do not care about the death of integrity, he can continue with his journey. However, is this course of action of letting him continue with his journey really moral and honourable? This is just to continue to sacrifice the Hong Kong public and a very important value in Hong Kong, that is, although what we have are not fakes but all very much genuine, unfortunately, the office of our Chief Executive was won by deception.

The most laughable of all is Secretary TSANG Tak-shing. He said that Members, in negating the motion on invoking the powers under the P&P Ordinance proposed by me today and negating the motion of no confidence last week, and even the impeachment motion as well, are acting in accordance with public opinion. I call on the general public to let him see what public opinion is. I ask them to go to the Victoria Park at 3 pm on 1 January next year and join the rally to make LEUNG Chun-ying see what the public opinion of Hong Kong people is, so that they would not be held in contempt by this bunch of people, who say that public opinion supports a humbug Government.

Finally, President, I hope that you can also join the rally on 1 January. This is really an opportunity for the Hong Kong public to tell LEUNG Chun-ying that public grievances are about to explode and that he must step down in order to allay public angers and really put Hong Kong back on the right track, so that integrity can prevail again rather than being declared dead.

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 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:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Dr Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK and Mr IP Kin-yuen voted for the motion.

Mr Abraham SHEK, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Dr LEUNG Ka-lau, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping,

Mr TANG Ka-piu, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the motion.

Geographical Constituencies:

Mr LEE Cheuk-yan, Ms Emily LAU, Mr Ronny TONG, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the motion.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Miss Alice MAK, Dr Elizabeth QUAT, Dr CHIANG Lai-wan and Mr Christopher CHUNG 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, 32 were present, nine were in favour of the motion and 23 against it; while among the Members returned by geographical constituencies through direct elections, 31 were present, 15 were in favour of the motion and 15 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 third and the fourth Members' motions. These are two motion debates 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, and have another five minutes to speak on the amendments; the movers of amendments each may speak for up to 10 minutes; and the mover of amendment to an amendment and other Members each may speak for up to seven minutes. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): Third Member's motion: Small and Medium Enterprises Financing Guarantee Scheme.

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

I now call upon Mr CHUNG Kwok-pan to speak and move the motion.

SMALL AND MEDIUM ENTERPRISES FINANCING GUARANTEE SCHEME

MR CHUNG KWOK-PAN (in Cantonese): President, I move that the motion, as listed on the Agenda, be passed.

President, in 2008, due to the global financial tsunami, the financial and banking sectors had encountered difficulties in financing, where enterprises were affected by the credit crunch. Fortunately, the governments of various countries had intervened to save the financial institutions. On 15 December 2008, the SAR Government introduced the Special Loan Guarantee Scheme (SpGS) for small and medium enterprises (SMEs) to enable SMEs to obtain funds to tide over the financial crisis. The scheme expired by the end of 2010.

On 1 January 2011, the Government launched the Small and Medium Enterprises Financing Guarantee Scheme (the Scheme). Under the Scheme, applicants are required to pay guarantee fees and the application procedure is more complicated in comparison with the SpGS, whereas the maximum guarantee coverage is capped at 70%. However, under the previous scheme, the SpGS, guarantee coverage of up to 80% was offered. Since guarantee fees are charged and the guarantee coverage is capped at 70%, the response of SMEs to the Scheme is lukewarm. Due to the strong request made by the business sector, the Government launched a special concessionary version of the Scheme, under which Special Concessionary Measures are introduced.

Under the new scheme, guarantee coverage is raised to 80% and the guarantee fee is lowered. These measures have made the Scheme more attractive and many SMEs made applications to the scheme. According to the

figures provided by the Hong Kong Mortgage Corporation Limited (HKMC), as at 30 November, 5 124 applications had been received, among which 4 672 cases had been approved with the guaranteed amount totalling at \$16.9 billion. It is evident that the need for financing of SMEs is great.

Though improved measures have been introduced under the new scheme and applications are on the rise, one of the problems faced by SMEs has yet to be solved, that is, the high interest rate charged by participating banks. Despite the guarantee offered for the loans, banks are still charging interest rate on a par with that for general commercial credit. Actually, banks participating in the Scheme are offered risk protection of 80% by the HKMC for the loans granted, and for the remaining 20%, banks usually require the enterprise concerned to provide security by various means, such as personal guarantee or collaterals in the form of bricks and mortar.

The Special Concessionary Measures launched by the Government have *de facto* provided many opportunities to banks. Yet, given the low-risk, or even riskless, condition, banks are charging SMEs 0.05% to 0.06% interest, which is comparable to a blatant robbery. In most circumstances, SMEs have no bargaining power.

Most of the friends in the sector have reflected their views to me. They think that since the HKMC has undertaken 80% of the credit risk, banks are too greedy to charge SMEs the interest rate for general commercial loans, which is 0.05% to 0.06%. The Executive Director of the HKMC, Mr Peter PANG, has pointed out that the average loan interest charged by banks is 4.6% at present, adding to this the 0.5% guarantee fee, the total cost for loan financing may be as high as 5.1%.

Recently, with the introduction of the fourth round of quantitative easing measures by the United States, banks are flooded by cash and liquidity is extremely adequate. The interbank offered rate (IBOR) of one-year term has reached the lowest 0.86%, whereas the mortgage interest rate is only around 2% to 2.5%. However, I do not understand why banks still have to charge high interest with the said measure when they are already offered 80% guarantee coverage. The burden is too heavy for SMEs.

In fact, according to the information of the Trade and Industry Department (TID), for the SpGS implemented in the past, over 20 000 SMEs had made applications and the authorities had only received 540 claims on bad debts, so the bad debt rate was only 0.69%. It is evident that the risk borne by banks is extremely low. But why may banks still charge SMEs such a high level of interest against the extremely low-risk background? The authorities should face squarely this unreasonable phenomenon. I think the authorities should amend the legislation or the terms of the Scheme and engage in proactive negotiations with the banking sector, so that banks will adjust the interest rate to a reasonable level for these low-risk loans.

The current Special Concessionary Measures and the previous SpGS are different. In the past, guarantee coverage was provided by the TID direct. But now, applications for guarantee coverage have to be approved and considered by the HKMC, and the assessment criteria adopted by the HKMC are more stringent than those of the TID.

Under the SpGS, SMEs were not required to pay a guarantee fee, but with the implementation of the existing Special Concessionary Measures, SMEs have to pay a guarantee fee being 0.5% of the loan amount, and in some cases, the guarantee fee is as high as 1.44%. Adding this rate of guarantee fee to the 4% to 5% interest charged by banks, SMEs are required to pay an interest rate as high as 5% to 6% per annum. However, the majority of SMEs are only making a profit of 8% to 10% at present, and in that case, a large portion of the profit made by SMEs will be eaten up by banks.

Moreover, according to the eligibility for the SME Loan Guarantee Scheme provided by the TID previously, many enterprises are not required to have a record of business operation of at least one year to be eligible for application. However, under the Scheme now provided by the HKMC, enterprises are required to have at least one year record of business operation to be eligible for application. Due to this criterion, enterprises having operated for less than a year in Hong Kong can in no way apply for these loans. I do not understand why enterprises with a record of business operation of less than one year were allowed to apply for the scheme provided by the TID previously but are not allowed to do so under the current scheme. Why are different assessment criteria are adopted?

Some representatives of SMEs have reflected to me that the enhancement of the policy is definitely important, yet the crucial link is to lower the interest rate charged by banks. At present, in addition to the guarantee coverage of the HKMC, banks usually require SMEs to provide property as collateral for the risk guarantee for the remaining 20% loan amount. In other words, banks are basically bearing "zero risk". Given these circumstances and the high threshold, certain SMEs, which are even dubbed as "mini-enterprises", utterly have no chance of applying for these loan guarantees.

Since the outbreak of the 2008 financial tsunami, the global economy has remained weak and the future is uncertain. SMEs have been troubled by the slowdown of the economy all along. Worse still, the spectre of the debt crisis in Europe lingers on, the performance of the economy of the United States is far from satisfactory and even the economic and trading environment in the Mainland are facing downside risks.

The application period for the Special Concessionary Measures only lasts for nine months, which will end about two month later on 28 February 2013. How would SMEs cope with the slowdown in economy in future?

Hence, the main concern of the motion proposed by me is the exceedingly high interest rate charged by banks under the Scheme and the request on the Government to negotiate with banks for downward adjustment of the interest charged under the Scheme.

At present, the enhanced Scheme is more welcomed by SMEs than the original Scheme. However, there are imperfections in the Scheme which require improvement. As such, the Liberal Party and many members in the business sector hope that the Government will make the Scheme a permanent measure, or at least extending the measure for another year. At the same time, we hope that the Government will make every effort to further enhance the relevant measures, plug the loopholes, relax the restrictions on application and lower the threshold for approval, as well as reintroducing the SpGS, to tide SMEs over financing difficulties, so that they can survive in the future economic environment and maintain their competitiveness.

With these remarks, President, I beg to move.

Mr CHUNG Kwok-pan moved the following motion: (Translation)

"That, with the uncertain external economy and the slowdown in the Mainland's economic growth, the Hong Kong economy may have downside risks in the future, making the prospects for the operation of small and medium enterprises (SMEs) difficult; the Hong Kong Mortgage Corporation Limited, with the support of the SAR Government, introduced the Special Concessionary Measures under the Small and Medium Enterprises Financing Guarantee Scheme (the Scheme) in late May this year to provide 80% guarantee coverage to SMEs at a concessionary level of guarantee fee, with the application period of nine months; under the Scheme, banks only need to bear 20% of the risks, but the interest rates levied are on a par with the interest rates of ordinary commercial loans, being as high as 5% to 6%; under the quantitative easing policy of the United States, the Hong Kong Interbank Offered Rate for a period of one year is as low as 0.86%, and banks' property mortgage rates are also as low as some 2%, reflecting that the interest rates under the Scheme are unreasonable, and the Scheme is unable to really help SMEs tide over financing difficulties; in this connection, this Council urges the Government to:

- (1) negotiate with banks to lower the interest rates under the Scheme, so as to alleviate the loan burden on SMEs;
- (2) extend the application period of the Scheme, relax the application restrictions and lower the approval threshold; and
- (3) make assessments having regard to the future economic development, and regularly review the needs of implementing the Scheme and its adequacy, so as to assist SMEs in resolving capital flow problems."

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

PRESIDENT (in Cantonese): Mr Jeffrey LAM and Mr TANG Ka-piu wish to move amendments to this motion, while Mr Dennis KWOK wishes to move an

amendment to Mr Jeffrey LAM's amendment. This Council will now proceed to a joint debate on the motion and the amendments.

I will call upon these Members to speak in the said order, but they may not move the amendments at this stage.

MR JEFFREY LAM (in Cantonese): President, first of all, I have to make a declaration. I know that some members of the Hong Kong General Chamber of Commerce as well as some companies in which I serve as a board member have applied for the Small and Medium Enterprises Financing Guarantee Scheme (the Scheme). The company in which I serve as a director has also applied for the Scheme.

President, the global economic slowdown as a result of the 2008 financial crisis has put the survival of many SMEs at risk. At that time, the Economic Synergy proposed the SME Special Loan Guarantee Scheme (SpGS) to the Government. Back in 2008 and 2009, Mr Andrew LEUNG and I attended meetings at the Government Secretariat almost every day. We were very pleased that the Government finally accepted our suggestion and introduced the SpGS in order to achieve the policy objective of "supporting enterprises and preserving employment".

The SpGS ended in late 2010 when the social economy was still unstable. Again, the Economic Synergy recommended to the Government some new initiatives, including the Scheme, hoping that the Government would continue to support SMEs to cope with difficulties in obtaining loans. We were very glad that the Government once again accepted our recommendation and launched a scheme led by the Hong Kong Mortgage Corporation Limited (HKMC). In late May this year, the Special Concessionary Measures under the Scheme was introduced. It is quite effective and has helped many SMEs resolve their working capital needs.

However, some SMEs have told us that the current business environment is still difficult. They very much hope that the Government can improve the Scheme by lowering the interest rate and extending the loan tenor. They hope that the Scheme can be the same as the SpGS before, providing more opportunities for more companies to obtain loans. In other words, they hope

that affiliates or subsidiaries can be allowed to make independent applications in order to obtain the maximum loan amounts respectively. We have actually held several discussion sessions with the relevant government departments regarding these proposals, which they have also indicated a willingness to consider and review.

President, following the introduction of the Scheme in 2011, many SMEs have expressed their views to the Government through us. Within a short period of six months, that is, from the launch of the Special Concessionary Measures in May this year to the end of last month, the HKMC has approved about 4 700 applications with the total loan amount exceeding \$21.1 billion. It sufficiently proves that the improved Scheme has not only helped numerous SMEs solve their financing problems, but also reflected the tremendous financing needs of SMEs. Hence, if the Scheme can be further enhanced, more SMEs and society as a whole will stand to benefit even more.

First of all, the proposal in my amendment urges the Government to negotiate with banks to lower the interest rate under the Scheme. In fact, we have taken the initiative to discuss this with some banks. Some banks have indicated a willingness to give this consideration. To my understanding, the SMEs currently pay about 5% interest on the loans they get from banks via the Scheme. However, since the implementation of the Special Concessionary Measures, the loan guarantee ratio has been raised to 80% with banks bearing only 20% of the risk. The fee charged by the HKMC will solely be borne by enterprises applying for the loan. Since the lending institutions bear a lower risk on granting loans, there should be room for the interest rate to come down. We understand that making loans to different companies carries different kinds of risk. As I said just now, banks have indicated their willingness to consider this during their discussions with us. In my opinion, however, the SMEs will be benefited if the Government can put some pressure on banks to lower their interest rate a little bit. As the economy of Hong Kong has not yet fully recovered, the SMEs also hope to extend the loan tenure to alleviate their loan repayment burden.

Moreover, the Special Concessionary Measures is time limited with an application period of only nine months, that is, until end February next year. Besides paying interest, SMEs currently have to pay an annual guarantee fee. But the annual fee will rise soon after the concessionary period expires in end February next year. With the sluggish economic recovery in the United States

and the stagnant European economy as the backdrop, the unemployment rate still rises to our dismay according to the recent data although Quantitative Easing 3 in the United States has focused on improving employment. All these reflect a weakening global economy with the manufacturing industry slowing down. Regarding the business environment for the first quarter of next year, the business sector is still bearish. February next year is still a bitterly cold month for the SMEs. As the Special Concessionary Measures will expire at that time, it goes against the Government's original intention of offering assistance to the SMEs. Hence, the Scheme really needs improvement. I also thank the Secretary for his willingness to consider my proposal.

President, the last proposal in my amendment is "to allow enterprises' subsidiaries or related entities, after providing proofs to the Hong Kong Mortgage Corporation Limited, to make independent applications and be able to obtain the maximum loan amount". President, let me cite an example here. A person holds 10% shares in each of the three companies while 90% of the shares belong to different individuals. If one of those companies has applied for the maximum loan amount, the remaining two companies will not be eligible to make applications under the current mechanism. President, my proposal is actually contained in the \$100 billion SpGS previously and it has been proven and widely accepted by the SMEs. However, the Scheme currently does not contain such a clause. When calculating the maximum loan amount, the enterprises and their subsidiaries or related entities are calculated altogether. In other words, the total amount they can borrow shall not exceed the maximum loan amount. It is somewhat different from the SpGS because the SpGS will facilitate granting the maximum loan amount in its calculation as long as the applicant has submitted relevant documentary proof, no matter whether it is a subsidiary company or a related entity of other new borrower enterprises. This can more appropriately cater for the needs of SMEs.

President, four years have passed since the outbreak of the financial tsunami in 2008. The worst has yet to come for the SMEs engaging in export, trading and manufacturing. SMEs in Hong Kong account for 98% of our local enterprises. At present, there are approximately 300 000 SMEs with 90% of them hiring less than 10 employees, whereas the vast majority of our local enterprises have less than 10 employees. Hence, the SMEs, which provide an enormous number of job opportunities, are an important pillar of the economic prosperity of Hong Kong. There is a saying that "people are either benefited by the flourishing SMEs or gravely affected by its waning". With the global

economy in the grimmest circumstances, Hong Kong will certainly be affected. Compared with the large enterprises, the SMEs in Hong Kong will be hit even harder for they have to face a continual rise in rent and operating costs.

In order to avoid giving people the impression of "protecting the big to the detriment of the small", the Government should introduce more measures such as lowering the profits tax rate to 10% for SMEs with a profit below \$3 million in order to encourage re-investment. Besides referring to allowances under salaries tax and personal assessment for the purpose of drawing up additional allowances for enterprises, the Government should also enhance its procurement policy as well as the tendering mechanism to benefit more local SMEs. What the Government can do is to improve the Scheme as proposed in my amendment. If more SMEs can tide over their difficulties, employment, government revenue and the financial sector will stand to benefit.

President, I so submit.

MR TANG KA-PIU (in Cantonese): The title of today's motion is "Small and Medium Enterprises Financing Guarantee Scheme", on which the Hong Kong Federation of Trade Unions (FTU) seldom expresses views. However, as mentioned by Members in today's question time, there are problems such as exorbitant insurance premiums and the uncontrollable difficulty faced by companies in taking out insurance. In fact, participants in the various trade union activities have reflected to me that it is extremely difficult to take out employees' compensation insurance or third party liability insurance, apart from the fact that premiums are raised on no ground and at an unreasonable rate. Regarding the last point mentioned by Mr LAM just now or his proposal of a further reduction in profits tax, the FTU begs to differ. However, this is not the subject of today's discussion. But regarding the original motion and the amendments proposed by other Members, the FTU supports them because we share Members' views raised just now and understand that the SMEs look forward to further development which will also help the economy or community of Hong Kong and facilitate diversification of the community as a whole.

However, precisely because some unavoidable cost items have been rising without justification, many SMEs find it hard to sustain their business. If SMEs

cannot sustain their business and fold up, the ultimate victims will only be the workers. Therefore, we have proposed an amendment by adding a note "such as allowing the loan to be used for taking out various types of insurance and staff training" to paragraph (3) of the motion in the hope that this is allowed under the Small and Medium Enterprises Financing Guarantee Scheme (the Scheme). Staff training will be discussed on other occasions in the future as it carries social significance. But the crux of the problem lies in the taking out of various types of insurance. If the Secretary for Commerce and Economic Development or his staff have paid attention to the Legislative Council's discussion this morning, they will find that the difficulty in taking out insurance has been raised in an oral question by the labour sector or a written question by the business sector.

For instance, Mr Tommy CHEUNG pointed out that although the reported number of work-related injuries in the catering industry has clearly decreased from 8 000-odd cases in the past few years to 7 000-odd, it is commonplace that the premiums have rocketed two times or even four to five times. The problem is not limited to the catering industry and I am also not speaking up for the catering industry. But this is really a widespread problem.

The Motor Transport Workers General Union (Non-franchised Bus Branch) held a press conference by the end of the summer this year before the beginning of the new school year. According to them, some nanny van services run by individual operators will only hire a couple of employees at most because the husband will serve as driver and his wife as nanny, who operate and manage the business on their own. Take a 61-seat school private bus newly purchased in 2010 as an example. The premium was merely \$20,000-odd at that time. It remained more or less the same in 2011 or around \$30,000. However, the situation changed drastically in 2012 when the premium rocketed to \$58,000 before the start of the school year. Further, the insurance is taken out on condition that it is a new vehicle without any record of making claims. As we all know, as nanny van services attach importance to safety and comfort, the driving speed must not be high. Despite such restrictions, the insurance companies have raised premiums by more than 200%. More importantly, such an increase is totally unfounded. According to the operators' experience, after they have rejected the offer of an insurance company to renew their insurance policies due to exorbitant premiums, they will not be able to get any offer from other insurance companies. While they cannot "shop around" to compare the

premiums of various insurance companies, these companies will collaborate to monopolize the market. Therefore, the Government should pay heed to this problem.

The premium for a 16-seat nanny van which has not made any claim has risen from \$6,000 to \$12,000. The auto insurance industry, unlike employees' compensation insurance business mentioned by some Members today, does not suffer any loss. As it has not suffered any loss, why are the premiums so expensive? Therefore, the loans granted under various financing schemes for SMEs should be used for acquisition of assets, refinancing or payment of guarantee fee in a lump sum because no cautious consideration has been given to the problem of insurance. But I have to point out that some service industries, which have to operate continuously with a low profit margin, are facing the problem of unpredictable premiums or even difficulty in finding insurance companies to underwrite their insurance policies. The difficulty in taking out insurance has become a big problem faced by SMEs in Hong Kong.

Therefore, I very much hope that special items can be set up under the Scheme with a view to alleviating the burden of SMEs in respect of insurance premiums. What I said just now is third party liability insurance. But what is more critical is employees' compensation insurance which is a grave concern to the labour sector. A public housing resident in Tung Chung has set up a small cleaning company to provide cleaning service to small offices as a contractor. With four employees in total, the company had to take out employees' compensation insurance at the premium of \$4,000-odd in the first year. The insurance covered four employees, including the boss and his son. Later, an employee took five-week sick leave due to injuries sustained in an accident. An intermediary of the insurance company advised him not to report the case as it was only a trivial matter, or else the premium would rise in the coming year. But he reported the case for fear that it would be unreasonable and an offence in law if he failed to do so. As a result, in the next year, as the intermediary said, the insurance company refused to renew his policy. After "shopping around", he took out insurance at a premium which had risen from \$4,000-odd to \$14,000.

As a Member from the business sector often pointed out, despite the meagre earnings of cleaning service companies, the premium has risen by \$10,000 for no reason. These SMEs, which have existed in our community all along, are not any innovative industry at all. What can they do if they cannot

afford costs which are mandatory in law? Can the Government consider this problem? In the face of rising premiums for employees' compensation insurance, the Government has not exercised monitoring by means of policy or legislation. This is particular true in respect of the rate of increase. The only measure is the implementation of the Employees' Compensation Insurance Residual Scheme under which enterprises having difficulties in taking out insurance will be provided insurance coverage through the industry as a whole. But the Government will not ask whether the premium is reasonable. Just now Secretary Prof K C CHAN has said that he will do his best to ensure reasonable premiums are offered. But no one can say clearly what is meant by reasonable premium. Consequently, premiums for employees' compensation insurance keep rising and become a problem that has plagued many industries, including the recycling industry, cleaning or catering industries. No one is spared.

The rocketing premiums for employees' compensation insurance faced by these industries will lead to three major problems. First, the problem of "bogus self-employment" will be inevitable because all responsibilities can be evaded, not to mention contributions to mandatory provident fund schemes. Second, work-related injuries will not be reported on the pretext that the workers are on sick leave. Third, worse still, some companies will immediately ask the employees concerned to resign of their own accord. Some employers who are more sympathetic will ask their employees to take work-related injury leave. However, as it is necessary to ensure that there is no high-risk individual on the list of insured employees, the employees who have sustained injuries will be dismissed upon completion of the assessment of work-related injuries. All these are phenomena in a vicious cycle of the labour market due to the rising insurance premiums. The Government must face them squarely.

Today, it is the Secretary for Commerce and Economic Development who attends our meeting instead of the Secretary for Labour and Welfare. But as the Scheme is a good one which can promote SMEs to start up or expand their operation, the Government should consider how best to help small companies in which the bosses may have to be personally involved in the work such as nanny van drivers or cleaning company proprietors mentioned by me earlier. They may not clearly understand that they may seek assistance in financing from the Scheme. Moreover, what they need is not financing, but assistance to pay unpredictable insurance premiums in case of contingency.

As I have pointed out, the number of self-employed persons keeps rising. According to figures released in September 2012, the number of self-employed persons is 200 000, representing an increase of 7% compared to that two years ago. Some said that it is attributable to the implementation of minimum wage. But we do not believe such an argument. On the contrary, one of the factors is the increase in additional staff costs, that is, the premiums for employees' compensation insurance. Therefore, I very much hope that the Government can address the problem and deal with it through the Scheme.

Another part of my amendment is related to staff training. I hope that through the Scheme, the Government can encourage companies to share responsibilities taken up by social enterprises. These include offering employment to the disadvantaged in the job market, such as ethnic minorities with low educational attainment, family carers such as housewives, prospective retirees or people with disabilities. In doing so, the community as a whole will feel that the Government is not tilted to the commercial sector, but also (*The buzzer sounded*)

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

MR TANG KA-PIU (in Cantonese): attaches importance to social development. Thank you.

MR DENNIS KWOK (in Cantonese): President, in the sixties and seventies when Hong Kong economy began to grow rapidly, the SMEs played a very significant role in the economic take-off. In the 1980s when China underwent reform and opening up, many SMEs in Hong Kong seized the opportunity to make investments in the Mainland, thereby making a lot of contribution to the development of our country by providing funds, technology and quality management. However, when the Mainland economy is booming after 30 years of reform and opening up, the SMEs in Hong Kong are facing unprecedented challenges. The intense competition in the local economy and from foreign countries, the rising operating costs and the Government's full support to the six priority industries have led to a structural problem of resource allocation. Most

of the SMEs cannot benefit from the Government's economic policies. Under the credit crunch due to a series of financial turmoil over the past decade or so, the SMEs, which are badly in need of liquidity, met disasters one after another.

The over reliance on the real estate and financial sectors by Hong Kong economy has resulted in an increasingly unhealthy economic environment. As we all know, the world economy is developing rapidly towards globalization. If the economy of a city is supported by a couple of industries only, its resistance against external economic fluctuations will be greatly reduced and the impact to be suffered will be much more severe than expected. If the Government continues to allow consortia to monopolize the market, our economy will face a catastrophic collapse in the future. Our economy will have a tomorrow if only the Government can provide assistance to the SMEs and improve their business environment in order to facilitate diversification in the development of our economy.

As Mr CHUNG Kwok-pan said in his original motion, with the uncertain external economy and the slowdown in the Mainland's economic growth, the prospects for the operation of SMEs are difficult. The Hong Kong Mortgage Corporation Limited (HKMC), with the support of the SAR Government, introduced the SMEs Financing Guarantee Scheme (the Scheme) in late May this year to provide 80% guarantee coverage to SMEs at a concessionary level of guarantee fee. To the SMEs, this could be described as a benevolent initiative. Under the Scheme, banks need only bear 20% of the risks. Under the guarantee coverage of the HKMC which is strong and solid, the risks of banks should be greatly reduced and the interest rates ought to be lowered accordingly. Quite the contrary, however, we see that the interest rates levied on the SMEs which have participated in the Scheme are on a par with the interest rates of ordinary commercial loans, being as high as 5% to 6%. Under the quantitative easing policy of the United States, the Hong Kong Interbank Offered Rate (HIBOR) for a period of one year is as low as 0.86%, and banks' property mortgage rates are as low as some 2%. Nevertheless, unreasonably high interest rates are levied on the SMEs which are operating with great difficulties. This is detrimental to the SMEs whose bargaining power is relatively weak. Given that banks need only bear 20% of the risks, why do they impose exorbitant and unreasonable interest rates and fees on the SMEs? The Government should also ponder over this problem. If banks are allowed to charge unreasonable interest rates, can the

Scheme really help the SMEs tide over the difficulties? The Government should study this in a proactive manner.

The SMEs have been complaining that they were given the cold shoulder by the Government. But during the financial crisis in 2008, various loan guarantee schemes offered by the Government had helped many SMEs tide over the difficulties. The Scheme introduced by the HKMC has in fact provided a lot of assistance to the SMEs and is very much welcome by them.

Therefore, I hope that the Hong Kong Government can negotiate with banks on how best to lower the interest rates under the Scheme and extend the loan tenor so as to alleviate the loan burden of SMEs. This is the first point. Secondly, we propose to extend the application period of the "Special Concessionary Measures" under the Scheme, relax the application restrictions and lower the approval threshold. In view of the fact that market demand for loans under the Scheme in the next few months may be sluggish as it is near the end of the year and the long Lunar New Year holidays, I still hope that the application period of the Scheme can be extended to assist the SMEs in financing.

Thirdly, we propose to strengthen the communication between banks and SMEs, and assist enterprises in understanding banks' criteria for loan vetting and approval; and at the same time, make assessments having regard to the future economic development, regularly review the needs of implementing the Scheme and its adequacy, and relaunch the Special Loan Guarantee Scheme in a timely manner for restored implementation by the Government, so as to assist SMEs in resolving their capital flow problems. Fourthly, we propose to allow enterprises' subsidiaries or related companies, after providing proofs to the HKMC, to make independent applications and be able to obtain the maximum loan amount.

The Scheme is a measure under the Government's policy to help SMEs with a benevolent intent. However, if it becomes a tool for banks to make profits and the Government turns a blind eye to it, thereby resulting in a situation where the SMEs in most urgent need of financing are oppressed by banks, I believe this is not the result desired by the Government.

Over the years, the SMEs are used to operating business on their own in the absence of government support. However, as the Government sincerely wishes to provide assistance to the SMEs this time around, I hope that the Government

will make a determined effort to provide thorough assistance to the SMEs so that they can benefit more under this Scheme.

I so submit.

SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT (in Cantonese): President, I thank Mr CHUNG for proposing this motion.

Small and medium enterprises (SMEs) make up the vast majority of enterprises in Hong Kong and employ over 1.2 million staff who account for about 48% of the total number of employees in the private sector, and play a vitally important role in contributing to the economic development of Hong Kong. The Government has all along attached great importance to the healthy development of SMEs. We have endeavoured to create a favourable business environment for SMEs and introduced various types of measures to provide suitable support to them.

To assist SMEs to obtain financing, the Trade and Industry Department has in place the SME Loan Guarantee Scheme to help SMEs secure loans from lending institutions for acquiring business installations and equipment and meeting working capital needs. Each SME can be provided with loan guarantee being 50% of the approved loan, subject to a ceiling of \$6 million. The maximum guarantee period for each loan is five years.

The Hong Kong Mortgage Corporation Limited (HKMC) launched the market-led "SME Financing Guarantee Scheme" (the Scheme) on 1 January 2011 with the aim of providing an additional channel to help SMEs address their financing difficulties. Under the Scheme, the HKMC will provide 50% to 70% loan guarantee to eligible Hong Kong enterprises. A guarantee fee is payable by the enterprises. Each enterprise or their related companies can borrow not more than \$12 million under the Scheme. The maximum guarantee period for each loan is five years.

In the light of the current uncertain external economic environment, local enterprises, in particular SMEs, may face liquidity problem as a result of possible credit tightening. In view of this, the Financial Secretary proposed in the 2012-2013 Budget the introduction of time-limited "Special Concessionary

Measures" under the Scheme of the HKMC. Under the Special Concessionary Measures, enterprises can obtain an 80% loan guarantee at a concessionary level of guarantee fee. In April this year, the Legislative Council Finance Committee approved the Government's funding application. The Government will provide a maximum guarantee commitment of \$100 billion for the Special Concessionary Measures. The Special Concessionary Measures, which were launched by the HKMC on 31 May, are open for applications for nine months up to the end of February 2013.

The measures have been well-received since their introduction. As at 7 December 2012, over 4 700 applications were approved under the Special Concessionary Measures, involving a loan guarantee amount of \$17.3 billion and benefitting over 3 500 enterprises in various trades and industries.

We have been working together with the HKMC in closely watching the operation of the Special Concessionary Measures. We are glad to listen to the views and suggestions from all sides, which will be helpful to us in our review of the Special Concessionary Measures, with a view to providing appropriate support to SMEs in need.

President, I would like to first listen to Members' views on the Special Concessionary Measures under the Scheme and give a response later on. Thank you, President.

MR ANDREW LEUNG (in Cantonese): First of all, President, I declare that I am a non-executive director of a securities limited company and a bank. I am very pleased to see this motion proposed by Mr CHUNG Kwok-pan today. It precisely demonstrates that Mr CHUNG agrees with and supports the SME Financing Guarantee Scheme (the Scheme) and other relevant measures proposed by us since 2008.

President, I believe you will still recall that during the initial outbreak of the financial tsunami, I already pointed out in this Council that the big storm triggered by the turmoil would affect SMEs in Hong Kong, making financing difficult for them. At that time, we already called for precautionary measures and good preparations by introducing measures to protect SMEs and enable them to resist the impacts posed by the financial tsunami and protect the "rice bowls" of their employees and Hong Kong economy. At that time, I was joined by Mr

Jeffrey LAM to discuss with the Federation of Hong Kong Industries, the Hong Kong General Chamber of Commerce, chambers of SMEs and The Hong Kong Association of Banks and make a lot of recommendations to the Government in a bid to enhance the original SME Loan Guarantee Scheme by raising the credit limit for each company and allowing enterprises to use it as capital for purchasing equipment and operating capital so as to substantially increase the flexibility of the finance scheme.

President, you may still recall that banks at that time did not even trust their neighbours and were reluctant to provide loans, and SMEs were simply incapable of borrowing any money from them even at prime rate plus 5% or even 10%, not to mention at a concessionary rate. Of course, we knew that the first proposed measure was short-term and could not help SMEs ward off the financial tsunami on long term. Hence, we and Mr Jeffrey LAM submitted a proposal on a special guarantee scheme for financing SMEs to the former Chief Executive, the Commerce and Economic Development Bureau and the Hong Kong Monetary Authority (HKMA) in a bid to lobby the Government to lower the interest rates for individual banks.

The Government readily accepted our recommendations by introducing on 15 December 2008 a \$100 billion Special Loan Guarantee Scheme (SpGS) providing 80% guarantee coverage. Thanks to the Government's guarantee, banks were willing to offer loans and substantially lower the interest rates of loans to SMEs to meet their urgent needs. I still recall that at a meeting of the Finance Committee then, a funding of \$100 billion was passed in less than one minute. The Government also heeded our advice a number of times and extended the application period repeatedly to 31 December 2010. A total of 43 000 applications were received and more than \$95 billion was approved to benefit at least 3 400 enterprises and preserve 300 000-odd jobs. The SpGS was the most effective and best proposal for supporting SMEs hit by the global financial tsunami.

As the global economy remained sluggish in 2010, we learnt that the \$100 billion SpGS was far from adequate to protect SMEs, and it would not be extended. As a result, we organized a workshop with the Bauhinia Foundation to exchange ideas with practitioners of the trade, banking and business representatives, government officials and academics and express our views. We also stated the need to introduce a credit insurance system to meet the needs of

SMEs and put in place a market-led and consistently stable credit insurance mechanism. After brainstorming, we proposed to the Administration that a loan scheme without loan limits be launched through a quasi-government organization, the Hong Kong Mortgage Corporation Limited. We were very pleased that the Government accepted our recommendation by refining the existing "Small and Medium Enterprises Financing Guarantee Scheme" to provide \$100 billion guarantee coverage and regularizing it. As a result, a \$200 billion guarantee coverage has actually been offered.

During the European debt crisis last year, the Government already responded to our call for raising the guarantee ratio and lowering the level of guarantee fee. It also introduced the Special Concessionary Measures in the Budget to provide 80% guarantee until end-February 2013. These measures can help SMEs obtain financing from banks when the market is facing all sorts of challenges.

Under the SLGS, enterprises are required to repay their loans before 31 December 2015. However, in view of the sluggish global economy and less than optimistic prospects, we hope the repayment period can be extended to alleviate the operational burden on SMEs. We also propose that the Special Concessionary Measures be extended for at least one year to assist SMEs in obtaining credit support to resolve their capital flow problems.

In fact, we have been keeping this Scheme in view since October. We have also sat down with the senior management of a major bank and SMEs to discuss the problems faced by SMEs. Certainly, SMEs have offered a lot of very good advice. For instance, the SLGS is not flexible enough and, in particular, SMEs' subsidiaries or related entities were not able to make independent applications. In October, we relayed SMEs' worries to the senior echelon of the HKMA and the Secretary for Commerce and Economic Development. I am very pleased that the Government has responded positively to and followed up this matter. I hope the Secretary can tell us some good news later on in response to SMEs' aspirations.

With the intensifying global competition, coupled with the fact that the economic environment will continue to worsen in the future, I hope the interest rates can be lowered to close to or below the prime rate. I also hope that the Small and Medium Enterprises Financing Guarantee Scheme will continue to be

enhanced to benefit more SMEs with a view to maintaining Hong Kong's competitive edge.

President, I so submit.

MR WONG KWOK-HING (in Cantonese): President, I speak in support of the original motion and amendments. Our discussion on the Small and Medium Enterprises Financing Guarantee Scheme (the Scheme) demonstrates that the Government's policies must be flexible and carts must not be made behind closed doors in providing support for SMEs.

President, I would like to cite a recent complaint lodged with the Legislative Council in which it is alleged that some government policies deal a severe blow to SMEs. Yesterday, proprietors, employees and trade representatives of wholesale businesses of Chinese herbal medicines throughout the territory approached the Complaints Division of the Legislative Council to lodge complaints regarding the new licence conditions drawn up by the Chinese Medicines Board in June 2011 requiring them to operate inside commercial premises upon the renewal or application of licences, or else they will not be granted the licence. As the grace period lasts until the end of 2013 and nearly one year has already passed, it will expire in one year or so. Although the impact is territory-wide, several hundred operators and employees of the wholesale businesses of Chinese herbal medicines in Ko Shing Street, Sai Ying Pun, and its vicinity are particularly hard hit. The total number of people affected stands at several thousands.

President, according to the licensing and renewal conditions imposed by the Chinese Medicines Board of the Government, they are required to operate inside commercial buildings. Such a requirement is absolutely a cart made behind closed doors, which is inconsistent with actual circumstances. As everyone knows, the "Chinese Medicine Street" in Sheung Wan has existed for more than a century since the founding of Hong Kong as a port. Many old shops were handed down through generations. Most of them operate in old Chinese tenement buildings, with some of them being used both as a shop and private dwelling or a street-front shop with a private home. Why do they prefer operating there? First of all, they can make use of rooftops or nearby alleys to

dry herbal medicines under the sun because they have to do so when the weather is wet. They are not

PRESIDENT (in Cantonese): Mr WONG, how is your speech related to the motion on the Scheme?

MR WONG KWOK-HING (in Cantonese): President, they are related. I am using this example to illustrate that the Government's policies must be flexible. Apart from financing guarantee, this is also a reality

PRESIDENT (in Cantonese): Mr WONG, as this motion is related to the Scheme, please focus on this Scheme.

MR WONG KWOK-HING (in Cantonese): President, as they must raise loans through the Government or government support, they are somewhat related. They must obtain business registration certificates, too. Although their relationship might be a bit remote, they are still related because they have to raise loans. However, this new policy introduced by the Government recently has caused them operating problems and made it difficult for them to raise loans. For this reason, I have to point out the relevant situation.

As I said just now, this new licensing requirement has made it difficult for them to operate not only because they find it difficult to raise loans, but actually, this government policy is simply driving them to extinction

PRESIDENT (in Cantonese): Mr WONG, your speech is still unrelated to this motion. Please confine your speech to the Scheme.

MR WONG KWOK-HING (in Cantonese): President, because of their borrowing and financing needs, they must have a trade to operate. However, the

trade currently operated by them is affected by this new policy on which the trade has not been consulted. As a result, these SMEs, or wholesalers of Chinese herbal medicines, are now in predicament. Hence, I need to cite this example to illustrate that not only should guarantee coverage be provided to give them support through loans, the Government should also come up with a flexible policy and refrain from formulating behind closed doors some policies that make their operation difficult.

In fact, they are now facing problems in operating businesses handed down through generations. Should the "Chinese Medicine Street" be destroyed by the Government by force

PRESIDENT (in Cantonese): Mr WONG, your concern about the "Chinese Medicine Street" and questions are worthy of discussion, but please discuss them on other appropriate occasions. Our motion debate is on the "Small and Medium Enterprises Financing Guarantee Scheme", so please confine your speech to this Scheme.

MR WONG KWOK-HING (in Cantonese): President, it is difficult for them to secure financing guarantee precisely because of the difficulties encountered at the moment.

PRESIDENT (in Cantonese): Mr WONG, I cannot accept your justification. Please focus on the Scheme.

MR WONG KWOK-HING (in Cantonese): President, they find financing and raising loans difficult precisely because, as they pointed out when lodging their complaints with the Complaints Division of the Legislative Council, they are currently facing these problems. This is a fact.

PRESIDENT (in Cantonese): Mr WONG, their complaints are not about financing and loans. Instead, they pinpointed the Government's policy on

Chinese Medicine traders, particularly those who have been operating for a long period of time. As this falls under another policy area, please seek another opportunity to put forward your points of view. Please speak on this motion on the Scheme.

MR WONG KWOK-HING (in Cantonese): I think that they are actually interwoven rather than completely separated

PRESIDENT (in Cantonese): Mr WONG, I have already made a ruling. Please stop arguing with me. If you wish to continue with your speech, please focus on the Scheme.

MR WONG KWOK-HING (in Cantonese): As you and I have spent most of the time on these exchanges, I can only hope that the Secretary can relay my views to the Food and Health Bureau and the relevant government departments so that this issue can be re-examined, even though this might not fall under the Secretary's jurisdiction direct.

PRESIDENT (in Cantonese): I would like to tell Members that it is incumbent upon me to stop any Member once he or she strays away from the question. Certainly, there are many subjects worth debating, but this motion today is proposed by Mr CHUNG Kwok-pan in his name to debate the "Small and Medium Enterprises Financing Guarantee Scheme". Therefore, will Members please confine their speeches to the motion and amendments.

MR CHARLES PETER MOK (in Cantonese): President, as more than 80% of the enterprises in Hong Kong are SMEs, they form the backbone of Hong Kong economy and feed more than 1.2 million people in the labour force and their families. SMEs are very sensitive to the external economy because their clients may easily default on payments and it is difficult for SMEs to secure financing through the issuance of bonds. Generally speaking, they can only rely on bank loans to raise working capital or expand their business.

I think it is worthwhile to support the Small and Medium Enterprises Financing Guarantee Scheme (the Scheme) introduced by the Hong Kong Mortgage Corporation Limited in 2011 as well as the Special Concessionary Measures launched in mid-2012 which substantially lower the annual guarantee fee while raising the guarantee ratio. I also agree with the direction of the enhancement plans proposed by Mr CHUNG Kwok-pan and other colleagues. Meanwhile, I am more concerned about the long-term effectiveness of the Scheme and the sustainable development of SMEs.

The Scheme originates from the Special Loan Guarantee Scheme (SpGS) introduced in 2008 by the Government. To cope with the financial tsunami and credit crunch at that time, the SpGS was launched to stabilize employment. In 2011, it was replaced by the Scheme which is operated in a manner closer to a commercial model. As a result, the interest rates are affected by a host of factors, reflecting the evaluations of lending risks by banks, their relationship with individual clients and market competition. Given this premise, there are practical difficulties in requesting the Government to interfere in market operation.

Nevertheless, public resources are involved in the Scheme. Besides examining such indicators as the number of applications, loan amount and guarantee coverage amount during its review, it is necessary for the Government to review regularly the effectiveness of the Scheme and its contribution to the economy. As at the end of 2011, the Trade and Industry Department (TID) has received 541 default claims, involving as much as \$510 million and a default rate of 0.69%. As for the Special Concessionary Measures introduced under the Scheme, it may take five years before we can know the relevant default rate, the amount of default claims, and so on, when the guarantee period for the majority of loans expires. It will then be necessary for the Government to review the guarantee fee level to examine if it is adequate to cover the default claims and administrative cost.

On the other hand, how can we know what purposes can be served by the loans under the Scheme in relation to the long-term development of SMEs? Can the loans assist SMEs in truly grasping business opportunities, upgrading productivity and improving products or services? Or are they used merely to repay other loans? The Government should follow up approved cases to understand how the loans are used and business operation of SMEs after receipt

of the loans by examining, for instance, their business turnover, financing position, staff retention or even recruitment of more staff, and so on, with a view to finding out if the performance of enterprises can really be upgraded as a result of the loans obtained under the Scheme. Meanwhile, the Government should also find out changes, if any, in the terms and conditions of loans offered by banks to SMEs as well as information about interest rates, repayment periods, collateral requirements, and so on.

We should pursue long-term economic growth rather than instant data. If the Government merely looks at the data and tells us a few years later that "the Scheme is very effective as more than \$16 billion in guarantee coverage amount has been approved", we can hardly see the whole picture. Neither will we know the impact of the Scheme on SMEs and the economy as a whole.

Besides financing, we also need to encourage SMEs to upgrade their competitive edge and go global through innovation, improved management and provision of quality products/services. I propose expanding the scope of assistance under the "Dedicated Fund on Branding, Upgrading and Domestic Sales" to encourage SMEs to develop brands, upgrade and restructure their operations, and go global while developing the Mainland markets.

I also hope that the Government can inject funds again into the SME Training Fund terminated by the TID in 2005. Many SMEs approve of this Fund and support the idea that the investment made by SMEs in staff training and learning can upgrade their competitive edge. However, the Government has all along failed to respond to this properly.

Let me cite the information and technology industry as an example. Despite the presence of many major enterprises, the industry is dominated by many young, creative and energetic SMEs and venture companies, which form the strongest impetus, so to speak. As the Government is one of the major local clients of information and technology services, we need its policy support. Hence, I propose that the scope of the existing Public Sector Trial Scheme under the Innovation and Technology Fund (ITF) be extended to cover eligible private organizations to provide funding to research institutions and private companies that have completed ITF projects, enabling them to produce prototypes or samples and to conduct trial schemes in the private sector. Furthermore, the

Government should provide tax concessions or subsidies to encourage private enterprises to accord priority to local technology when they need to procure technology. For instance, the Government may provide funding at 30% of the cost to eligible local private organizations in procuring products/services developed by local companies with a view to encouraging the development of original technology in Hong Kong.

Lastly, financing, innovation and upgrading of competitive edge are most vital to the gaining of a firm foothold by SMEs. As entrepreneurs, SMEs in Hong Kong must demonstrate a steadfast can-do spirit and perseverance. As for the Government's policies, they should assist SMEs in striving for opportunities to bring their strengths into play and offer assistance to aspiring and capable business-starters, so that the economy can become more diversified and energetic.

For these reasons, I support Mr CHUNG kwok-pan's original motion. President, I so submit.

MR MICHAEL TIEN (in Cantonese): President, the most effective way to narrow the wealth gap in Hong Kong is to actively develop SMEs and micro-enterprises. I think the Government must exhaust all means to provide support to SMEs, helping them develop new industries in which major consortiums are not interested, so that they can stand up to monopolization by major consortiums. Only in this way can divisions and conflicts be reduced in society and the economic pie be made bigger.

SMEs are operating in dire straits. On the demand side, the domestic sales market has shrunk and the business turnover has declined. Meanwhile, the costs of raw materials, wages, rental, and so on, have all been rising. Coupled with uncertainties in the external economy, many SMEs are currently in a position of life and death. The Government has consistently adopted various measures, including the provision of financial assistance by way of loan guarantee and financing guarantee, to enable SMEs to improve their cashflow and help them in upgrading and restructuring, with a view to enhancing their competitiveness in the international arena. This, I fully support.

I also agree that the Government should provide assistance to SMEs where necessary. But I wish to stress here that the Government must exercise great care and caution in the use of public coffers to support the operation of private commercial activities, in order to ensure that taxpayers' money is well-spent. President, as at 23 November this year, some 4 500 applications of the applications received for an 80% loan guarantee under the SMEs Financing Guarantee Scheme (the Scheme) were approved, involving about some \$20 billion and a loan guarantee totalling \$16.4 billion, which is absolutely no small amount.

There are views that the vetting and approval criteria and procedures are far from transparent and that the Scheme involves a large amount of public money. In this connection, I hope that the Secretary can explain the following points to the public later on. Firstly, since the introduction of the Scheme and the Special Concessionary Measures, have effective measures and criteria for monitoring been put in place to ensure that the applicants are not engaged in high-risk speculative activities with the loans secured with guarantee provided by the Government? Secondly, is it possible to make public the Government's vetting criteria, risk assessment procedures and the amounts of bad or doubtful debts recorded in the past? Thirdly, can the Government review and assess the effectiveness of the Scheme? Fourthly, if the proposal to further relax the application restrictions as suggested in this motion today are accepted, what will the Government plan to do to improve this monitoring system and will the Government conduct a new round of risk assessment on the measures proposed in this motion and make public the risk assessment report?

President, I must stress here that I, being a member of the business sector, welcome measures implemented by the Government to improve the business environment. But as a Member of this Council, I must accord first priority to public interest. If the Government's failure to effectively exercise monitoring will result in well-intentioned measures degenerating into policies that encourage people to take out loans to engage in property speculation and stock speculation, I would definitely say no.

I so submit.

IR DR LO WAI-KWOK (in Cantonese): President, as the mover of the original motion and Members proposing the amendments have said, owing to such factors

as an uncertain external economy and the tightening of credit, local SMEs face difficulties in financing. In view of this, an improvement of the Scheme is indeed a measure that should be taken to help the SMEs. But financing is secured to meet the needs of business operation and if business is not good, these initiatives would not be of much help to SMEs, however good the terms of financing may be. Moreover, in order to take out loans, an enterprise is still required to provide its business plan and go through assessments. Therefore, I think if we wish to discuss ways to provide support to local SMEs, we should think broader and focus on the creation of a more favourable business environment for SMEs.

I have recently exchanged views with friends in the engineering and technology sectors on the technological development and industrial policies in Hong Kong. Some of them are friends from SMEs and I have had the opportunity to gain an understanding some of their aspirations and views. What policies can the Government draw up to support the local SMEs?

First of all, the Government should more actively support SMEs in opening up markets and in particular, support should be provided for their development in the Mainland. In recent years, quite a number of local SMEs and professionals hope to pursue development in the Mainland but run into many difficulties and even disputes. They very much need systematic and comprehensive support and assistance, and they also need appropriate financing arrangements.

At present, the Hong Kong Government has set up four offices in the Mainland, which are located in Beijing, Shanghai, Chengdu and Guangzhou respectively. Members of various industries consider that the Government should enhance the duties and functions of these Mainland Offices and set up SME support centres in different regions in the Mainland where matching resources, services and facilities are provided in a one-stop manner to help SMEs develop their business in the Mainland. These services should include registration and administrative consultation, legal consultation, information on financing arrangements for business development in the Mainland, and so on. These support centres should work in collaboration with the Hong Kong Productivity Council to provide technical consultation and consultancy services for SMEs, and to encourage them to upgrade their competitiveness with creativity and technologies. In the meantime, these centres should co-operate with the

Hong Kong Trade Development Council in promoting Hong Kong brands and building up a network of business partners, so as to relieve the local SMEs of their difficulties in having to fight lonely battles and being cut off from all support in the Mainland.

Besides, the Government should provide practical financial incentives to encourage and assist SMEs to participate in research and development (R&D) projects, with a view to upgrading their competitiveness and hence promoting industrial innovation. The Government has, in recent years, introduced the Research and Development Cash Rebate Scheme. Under this Scheme, an enterprise investing in applied R&D projects in two categories will be granted a cash rebate equivalent to about 30% of the amount of investment made. To a certain extent, this is indeed conducive to encouraging enterprises to inject resources into the development of high value-added products and brand building.

Having said that, this Scheme is limited to R&D projects in two categories only, including Innovation and Technology Fund projects and projects funded entirely by enterprises in partnership with designated local research institutions. Many industry practitioners consider that the Administration should not only expand the scope of application of the Scheme, but also provide greater financial incentives to enterprises, in order to facilitate active participation by more SMEs in R&D. For example, the Government can consider providing tax deductions or concessions being double and even three times of the expenditure incurred by enterprises in R&D, design and brand building. This can kill several birds with one stone. It is in line with the market-led and efficiency-based principles, enabling enterprises to benefit more from tax concessions in making more profits, and as it applies to all enterprises, the Government will not be criticized for favouring any particular industry and sector. Besides, it can facilitate close co-operation among universities, research centres and the industries in the industrial development and commercialization of R&D results. This will provide a greater incentive for SMEs to engage in R&D, design and brand building projects with commercial value.

The Government should assume a leading role by improving its procurement policy and tender mechanism to benefit more SMEs. With regard to its work in procurement, the Administration has always claimed that Hong Kong is a member of the World Trade Organization (WTO) and that it has joined the WTO's Agreement on Government Procurement. In procuring services and

goods, the Government must provide an open and fair environment for competition to both local and overseas suppliers. Members of the industries consider that the Government should make reference to the relevant experiences of other places, including the many WTO members, and in order to encourage technological development in Hong Kong, the Government should also take the lead in the application of locally developed technological products, so that SMEs can use the local market as a testing point for their products.

As regards the tender mechanism, the Government's tender requirements are often unfavourable to SMEs, and members of the industries have very strong views about this. The Administration should improve the existing tender mechanism and terms of contracts and promote healthy competition by, among other things, appropriately dividing the projects to cater for the development needs of large, medium and small enterprises, thereby providing more opportunities for the participation and development of local engineering and technological experts and various industries.

President, the achievements made by SMEs in promoting the economic development of Hong Kong and in creating jobs are evident. We hope that through public resources and policies, a business-friendly environment and suitable financing arrangements can be provided to SMEs.

President, I so submit.

PRESIDENT (in Cantonese): Members may have many proposals on how the Government should provide support to SMEs, but I wish to remind Members once again that the topic of this motion debate is "Small and Medium Enterprises Financing Guarantee Scheme". Members please speak in relation to the motion and the various amendments.

MR WONG TING-KWONG (in Cantonese): President, to the SMEs, the past year was a year of mishaps. The debt crises in Europe and the United States had been so volatile that they were, at one time, nearing the bursting point but saw light at the end of the tunnel at another. The Mainland, which is the locomotive leading the world's economic development, had also seen an economic slowdown,

plunging Mainland enterprises into the crisis of capital chain rupture. Faced with these external developments, local SME bosses have felt like riding on a roller coaster as they experienced the thrills of sudden and drastic fluctuations. But after repeated rounds of ups and downs, orders from overseas have dropped and business has shrunk. The conditions for the operation of SMEs have become all the more difficult.

While external circumstances are unstable, the local conditions are no better as many new challenges have arisen. Over the past year, the competition law has been enacted; the minimum wage has come into effect and it is even poised to be adjusted upwards recently; and the standard working hours issue is also ready to come on stage. Although these are all well-intentioned measures for the benefit of the people, they will indeed add to the burden on SMEs and cause them to face more difficulties.

I have raised these points not to pour out grievances. Nor do I mean to criticize the competition law, minimum wage or standard working hours. I have made these points in the hope that Members can understand that over the past year, there have been many new measures for the SMEs to adapt to and many new challenges to overcome. For the sake of the overall interest of the community, the SMEs have already accepted many changes and made many compromises. When the SMEs face difficulties now, they do hope that the Government and the community can righteously lend them a helping hand.

How can assistance be provided to them? The difficulties mentioned just now are all related to business downturn, rising costs and pressures on capital flow. The capital chain is an important part of the lifeline of SMEs. The most effective way to help the SMEs is to focus on the capital chain. The Government has previously introduced the Scheme and subsequently, Special Concessionary Measures were also implemented, having regard to the plights of the industries. These initiatives are well-received by the SMEs and they are also grateful to the Government for such good-intentioned initiatives. Having said that, during the implementation of these measures, problems have gradually surfaced, and there is still room for improvement in many details.

As we all know, following capital outflows from the United States through the quantitative easing measures, there is overflowing capital in the market with an exceptionally low interest rate. The Hong Kong Interbank Offered Rate for a period of one year is as low as 0.86%, meaning that the capital cost of banks is extremely low. But under the Scheme, even though banks need to bear only 20% of the risks, the interest rates levied are on a par with the interest rates of ordinary commercial loans, being as high as 5% to 6%. While banks can obtain capital at a low cost and provide loans with guarantee provided by the Government, they still lend at high interest rates. This is obviously an extremely unreasonable practice which enables banks to reap double benefits. The objective of the Scheme is to help SMEs secure financing, rather than making it convenient for banks to reap profits. In this connection, the Government must tackle the problem at root and negotiate with banks in a timely manner to lower the interest rate for loans granted under the Scheme and extend the repayment period, so as to alleviate the burden of loan interest on SMEs in drawing loans.

Moreover, the Government's Special Concessionary Measures are open for application for only nine months, meaning that the benefits are offered on a first-come-first-served basis. Besides, each enterprise is subject to a loan ceiling of \$12 million and if a company has taken out a loan, the money that the other sister companies can borrow will be less and what is more, the loan secured by each company cannot be spent on taking out insurance and staff training. These measures carry many restrictions indeed. In fact, the purpose of the Government in introducing these Special Concessionary Measures is to help SMEs resolve their financing difficulties. To this end, the Government should thoroughly complete this task by extending the application period, relaxing the application restrictions, lowering the approval threshold and widening the use of loans. Of course, if the requirements are too loose, the Government may worry about abuse and bad debts. So, an appropriate degree of monitoring and deregulation should always go hand in hand. A clever government certainly knows how to strike a balance flexibly.

Lastly, President, while the concessionary measures are well-intentioned, it is necessary for any measure to progress with the times. Given the volatile economic circumstances, the SMEs are facing an ever changing environment in operation. It is necessary for the Administration to regularly review the relevant measures in the light of the circumstances and needs, in order to effectively resolve the cashflow problem faced by SMEs.

The original motion and the three amendments all call on the Government to appreciate the situation of SMEs and improve the Scheme by negotiating for lower interest rates and removing the restrictions. While the motion and the three amendments may be different in their contents, I very much agree with their general direction. I hope that the Government will readily accept good advice and help SMEs resolve their financing difficulties, thereby protecting the "rice bowls" of the general workforce.

With these remarks, President, I support the motion.

MR FRANKIE YICK (in Cantonese): Currently, President, more than 90% of practitioners in the logistics industry in Hong Kong are SMEs. Not only do they have to face rising operating costs, including rents, insurance premiums, fuel charges, staff expenditure, and so on, they also have to face keen competition from the Mainland. As a result, their operation has become increasingly difficult. Once running into liquidity problems, they will be unable to stay afloat, thus inevitably leading to waves of closures. The financial tsunami in 2008 has forced quite a number of SMEs in the logistics industry to fold. Many cross-boundary lorry drivers have also switched jobs as a result. Despite the subsequent gradual revival of the market, the problem with the loss of drivers has already occurred. As a result, the logistics industry faces a very serious shortage of cross-boundary lorry drivers today.

Given the increasing risks currently posed by the external economy, it is expected that Hong Kong economy will inevitably be affected, and the logistics industry will definitely not be spared. Faced with the dire economic environment, SMEs undoubtedly encounter greater difficulties than larger enterprises in raising capital. Hence, timely support will assist SMEs in tiding over the financing difficulties in keeping their companies and staff positions.

Given the uncertain economic conditions, banks will be more prudent in lending, and the threshold will be raised even higher. In addition to their request for "bricks and mortar" as collateral, banks also set a very high standard for credit records, making it difficult for SMEs to submit applications. In order to resolve the problems faced by SMEs in credit crunch and financing, the TID launched four SMEs subsidy schemes, with the Special Loan Guarantee Scheme (SpGS) introduced in late 2008 being the most popular. It was because the Government

might provide up to 80% of credit guarantee, and the funds provided could also be used in a more flexible manner. Despite the conclusion of the application period in late 2010, the number of approved cases has reached 39 000 as at the end of November this year, involving as much as \$95 billion in loan amounts, as the SpGS is operating like a revolving credit line.

Subsequently, the SpGS was replaced in early 2011 by the Small and Medium Enterprises Financing Guarantee Scheme (the Scheme) operated by the Hong Kong Mortgage Corporation Limited (HKMC). However, its application procedure is relatively complicated and this new Scheme has failed to sympathize with and cater to the unique operation and financial conditions of SMEs due to its stringent financial requirements. Moreover, the guarantee coverage fee is on the high side and the maximum guarantee coverage is only 70%. It is simply impossible to satisfy the financial and financing needs of SMEs.

Most SMEs are characterized by inadequate operating funds and less than meticulous financial management. Let me cite the logistics industry as an example. As some of them are family-run small businesses, they simply cannot keep their financial information in a systematic manner, not to mention the retention of complete bills, financial statements, declarations, and so on. Hence, the requirements imposed by the HKMC actually make life difficult for SMEs. Furthermore, many SMEs are unable to pay the exorbitant guarantee fee. Coupled with the consistently high interest rates, that SMEs have been deterred is indeed an expected outcome. Although the Scheme has been in place for one year, only eight applications have been submitted by the transport and logistics industries.

In fact, the Liberal Party already took the lead in criticizing the "bricks and mortar lending policy" at a meeting held by the Panel on Commerce and Industry as early as 2009. Today, the situation persists. Hence, we still have to make the same request again. Early this year, my colleague, Mr Vincent FANG, strongly called on the Government to relaunch the SpGS which could better meet the actual needs of SMEs. Although the Government has not accepted good advice with a full response to the requests of the Liberal Party and the majority of SMEs, Special Concessionary Measures were eventually introduced under the Scheme on 31 May this year to raise the guarantee coverage to 80% and lower the

annual guarantee fees from between 0.5% and 4.2% to between 0.5% and 1.44%, thereby slightly alleviating the imminent difficulties faced by SMEs. Nevertheless, the Special Concessionary Measures last only nine months and will expire soon after the Lunar New Year in February next year. Some SMEs might not be able to survive the New Year and have to close down. Hence, in the opinion of the Liberal Party, the Government must take precautionary measures by extending the period of the Special Concessionary Measures at an early stage.

Nevertheless, the prevailing enhancement measures can still not resolve such problems as guarantee fee payments, stringent vetting and approval, and so on. This is why I think the feasibility of relaunching the SpGS should be examined seriously. As pointed out just now, this Scheme is the most popular among SMEs. Furthermore, it can yield a very high return at just a minimal cost. During the two years after its implementation, it has supported more than 20 000 SMEs in retaining more than 340 000 jobs directly or indirectly. So far, its default amount is only \$510 million and its default rate is at a relatively low level of 0.69%. Its effectiveness is thus evident.

As the worst moment might possibly appear again, the global economy can hardly see the dawn in the short term. The Government must make preparations to cope with the possible resurgence of waves of closures of SMEs. In the long run, the authorities must consider the proposal all along championed by the Liberal Party to relaunch the SpGS spearheaded by the TID. It can also study ways to enable this Scheme and the Small and Medium Enterprises Financing Guarantee Scheme to make up for each other's deficiencies and make them a standard system to enhance financial support for SMEs.

President, I so submit.

MR MA FUNG-KWOK (in Cantonese): President, the business environment in Hong Kong has become increasingly difficult in recent years. Owing to such factors as fluctuations and uncertainties in the external economy, the export-dependent manufacturers and SMEs in Hong Kong cannot but be affected. Companies which have set up factories in the Mainland are facing rising operating costs due to various unfavorable factors. Locally, many SMEs are

facing a capital flow problem due to rocketing rents and rising wages which have added to their already heavy burden.

Today, Mr CHUNG Kwok-pan's motion proposes to optimize the Small and Medium Enterprises Financing Guarantee Scheme (the Scheme) and extend the application period of the Special Concessionary Measures. Personally, I agree that the Government should continue to render assistance to SMEs. But I very much hope that the Government, when considering various optimization measures, will particular note whether the Scheme can pinpoint the actual situation of the SMEs and address the crux of the problem, or else public money will be spent without benefiting the SMEs.

The successful launch of the Scheme is due to the fact the Hong Kong Mortgage Corporation Limited, with the support of the Government, provides 80% guarantee coverage to the SMEs so that the lending institutions need only bear the remaining 20% of the risks. From the perspective of providing assistance to SMEs, the current Scheme has three major drawbacks. First of all, the Government has granted the power of loan vetting and approval to lending institutions, without retaining its leading role. If loans are granted by lending institutions improperly, public money will be squandered in exchange for an increasing amount of bad debts. Furthermore, the application procedures are also very complicated.

Secondly, it has been reported that before the implementation of the Special Concessionary Measures, the interest rate of general commercial loans was only 5.3% on average. The industry expected that the interest rates would have certain room for downward adjustment after the implementation of the Special Concessionary Measures. But in fact, loans are granted by lending institutions still at interest rates of 5% to 6%. By comparing the current situation with that when demand for loans is sluggish, we can see that the lending institutions can lower their business risks through the Scheme on the one hand, but continue to earn guarantee fees and high interest rates on the other. They have become the biggest beneficiaries under the Scheme as they can run operate at low risks and low costs but earn high profits.

Thirdly, given that the lending institutions will vet and approve loans purely from the commercial perspective and the Scheme's original purpose of assisting the SMEs is not their primary task, their commercial decisions entirely

take precedence before the Government's intention of helping the SMEs. Furthermore, factors such as whether the loan approval threshold can be lowered and whether the borrowers are in genuine need are not the primary consideration of lending institutions. In fact, given that the loan approval threshold has been raised, those SMEs which need liquidity are often rejected.

The Government's original intention of launching the Scheme is to create "timely rain" amidst the uncertain outlook in the global economic environment and growth in export market with a view to addressing the most pressing need of SMEs in financing. However, in the eyes of many SMEs, it seems that the Scheme has been turned into an initiative aimed at helping lending institutions to manage their risks with the stability of the banking system being accorded a higher priority than helping the SMEs. This is a case of putting the cart before the horse. Therefore, the Government should consider introducing such measures as lowering the interest rates, extending the loan tenor and lowering the application threshold, in order to help the SMEs.

Although SMEs account for 98% of the total number of enterprises in Hong Kong, their financial strength and capacity against adversity is weak. They will inevitably bear the brunt at difficult times. Furthermore, as more than 60% of Hong Kong people are employed by the SMEs, the number of victims will be great when problems arise due to the knock-on effect. In addition, SMEs play a key role in the development of Hong Kong. These three factors reflect the importance of Government's efforts in stabilizing and assisting the SMEs. Therefore, I urge the Government to expeditiously review the Scheme. In particular, consideration should be given to whether the power to grant loans should be recovered, and the implementation of more visionary, more strategic and targeted support measures for the SMEs.

With these remarks, I support the original motion and the amendments by Mr Jeffrey LAM and Mr TANG Ka-piu. Thank you, President.

MR YIU SI-WING (in Cantonese): President, at present, there are over 280 000 SMEs in Hong Kong, accounting for 98% of all local enterprises and providing over 1.2 million people with job opportunities, that is, approximately 50% of all employed workers in private enterprises. SMEs are the important pillar

supporting the local economy and the employment market. However, they often encounter financing difficulties, particularly in times of sluggish economy or financial crisis when banks tighten credit or recall loans, when they will face liquidity crises.

To assist SMEs to secure bank loans, the Small and Medium Enterprises Financing Guarantee Scheme (the Scheme) was introduced in late May this year. However, as at April this year, only 286 applications have been received and only about 220 SMEs have benefited from the Scheme. In comparison with the Special Finance Scheme introduced in 1998, under which over 1 300 applications had been received in the first eight months of implementation, and the SME Loan Guarantee Scheme (SGS) introduced in 2001, under which over 12 000 enterprises had benefited in the first year of implementation, the performance of the present Scheme is obviously less desirable.

It is worthy to note that with the introduction of the Special Concessionary Measures under the Scheme by the Government in the end of May, the number of applications has shown a palpable increase. Since the launch of the special measures six months ago, over 4 600 cases involving a loan amount of \$21.1 billion have been approved. This implies that the demand for loan guarantee service for SMEs does exist and is not declining, only that SMEs' response to the Scheme has been lukewarm.

President, unlike the loan guarantee in the past, the present Scheme was introduced by the Hong Kong Mortgage Corporation Limited (HKMC). The Scheme aims to set up market-led finance guarantee to provide steady loan support to SMEs, serving as a complementary measure to the SGS. If the Scheme can provide proper assistance to SMEs and establish a long-term and sustainable loan mechanism for SMEs in Hong Kong, this concept is definitely worthy of support. However, the function of the Scheme obviously has yet to be brought into full play so far, and thus examination and enhancement of the Scheme are necessary.

We understand that the HKMC, being a public organization, should be accountable to the public in providing finance guarantee, yet the affordability of SMEs should not be overlooked. The authorities should draw reference from the experience of the Special Concessionary Measures, examine the feasibility of adjusting the guarantee fee and the percentage of guarantee, and engage in

negotiations with banks for lower interest rates charged on these loans. Moreover, it is the general aspiration of SMEs and banks that the procedures for banks to submit documents be simplified and the vetting procedures involving loan restrictions on linked companies be relaxed. All these are worthy of serious consideration.

President, in the various global financial crises or in the difficult times of local economy in the past, the Government had launched time-limited special measures to help SMEs to solve their liquidity problems, such as the Special Finance Scheme introduced in 1998 operating till 2000, and the Special Loan Guarantee Scheme launched in 2008 operating till 2010, and so on. The Special Concessionary Measures introduced under the Scheme this time around is also subject to a time limit of nine months, which will operate till February next year as scheduled.

Since this involves the spending of public money, it is reasonable that similar special measures should be withdrawn after serving their function and when the economy picks up. However, according to the Half-yearly Economic Report published by the Government some time ago, it is expected that uncertainties in the international economy will impede the future development of Hong Kong, where the growth for the whole year will slow down from 1% to 3% to 1% to 2%. The Chinese Manufacturers' Association of Hong Kong has also said that Hong Kong merchants have been facing a far more difficult business environment this year than at the time of the financial tsunami. Under this circumstance, the nine-month time limit of the Special Concessionary Measures is too short.

Actually, during the financial tsunami in 2008, the Special Loan Guarantee Scheme launched by the Government had benefited more than 20 000 enterprises and successfully preserved the jobs of over 330 000 employees. As for the Special Concessionary Measures, though they have been launched for just six months, around 82 000 employees have already benefited from it. Moreover, according to the experiences in the past, the bad debt rate of each loan guarantee scheme is declining. For the scheme in 1998, the bad debt rate was 7.55%; for the scheme launched in 2001 and operated for seven years, the rate was around 2.7%, and for the scheme in 2008, the latest rate was only 0.69%. It is evident that similar special measures have been effective. The risk borne by the Government has not increased significantly, yet the measures have brought about an important effect of preserving employment.

It is foreseeable that the business environment in Hong Kong will be less than optimistic next year, and it is unknown when the global economic crisis will be settled. As in the case of the tourism sector, where over 80% of the companies are SMEs, they have to face the challenge of increasing operating costs in spite of the increase in tourists. We hope the Government will address the aspiration of the industry squarely by adopting extraordinary measures at extraordinary times, that is, extending the application period for the Special Concessionary Measures.

President, I so submit.

MR MARTIN LIAO (in Cantonese): President, the fluctuations in the external economy and the launch of the new round of quantitative easing measures by the Federal Reserve of the United States have aggravated the problem of excess liquidity globally, which implies that Hong Kong is under the threat of another round of price hike. It is expected that the market will become relatively volatile and unstable in the future. Enterprises may have to face changes in business and finance environment, where SMEs may once again encounter liquidity problems resulting from the credit crunch. Over 1.2 million employees are employed by SMEs, which account for 50% of all employed workers in private enterprises. Hence, we should save for the rainy days and by all means help SMEs to take precautions before the storm strikes, minimizing the difficulties they may encounter when the economy goes downhill. We should particularly learn from the past. We should not act only when the next financial tsunami strikes, for the economic loss to be suffered at the time will be difficult to avert.

At present, with the Special Concessionary Measures, the loan guarantee under the Small and Medium Enterprises Financing Guarantee Scheme (the Scheme) has been increased from 70% to 80%, where the actual percentage of risk borne by banks has been lowered to 20% only, to boost the confidence of banks in meeting the financing needs of SMEs. There are now 28 participating banks under the Scheme, which offer various concessions to attract customers, including guarantee fee subsidies of up to 18 months, cash rebates, additional guarantee fee rewards for customer referrals and 50% handling charge waiver, and so on. Despite the fierce competition, various banks have proactively launched all kinds of concessions to compete for a share of the SME loan market, which means banks consider the loan scheme a profitable business.

Most of the participating banks under the Scheme are currently offering the 5% prime rate (P) as the primary loan interest, where a premium rate will be added to pitch the actual interest rate for the loan at 6.5%, which is commonly known as the "P+" interest rate. However, banks in general tend to adopt the "P-" offer in charging collateral loans, such as mortgage, and so on, where the interest rate is lowered to 3.5% to 4%. Since banks are only bearing 20% of the risk of the loan amount under the Scheme, the banking sector, which is the source of all industries, is taking advantage of the promotion effort of the Government and charging SMEs unreasonably high interest. Such a practice is blatant contempt of the intent of providing support to SMEs through economic development and policies in Hong Kong.

President, in normal circumstances, banks will make profit from the net interest margin that exists between the Hong Kong Interbank Offer Rate (HIBOR, or H), a lower rate at which banks borrow money, and the Prime Rate, a higher rate at which banks charge their customers. Given the excess liquidity now, banks will earn at least a 4% net interest margin at extremely low risk, which is better than the return of many investment options in the market. I also notice that a number of major participating banks are charging interest rate higher than unsecured personal loans with similar conditions, which discrepancy is at least 1% or more. These scenarios indicate that there is actually room for banks to lower the interest rates. For this reason, I consider that the levy of a restricted charge will facilitate suitable sharing of risk among banks, enterprises and the Government.

In this connection, I suggest banks to adopt the "P-" or the "H+" interest rate and introduce an effective loan interest rate cap, so as to reduce the burden of SMEs. On the other hand, though the problem of bad debt is not serious at present, the problem of default on repayment is surfacing gradually. I think banks may offer suitable flexibility to SMEs, such as an extension of the repayment period, integration of assets and debt reorganization, to help SMEs to ride out their difficult times and alleviate the bad debt situation.

Moreover, at present, there is a lack of transparency in the vetting criteria adopted by banks on the financing of SMEs, such that SMEs have no guideline to follow. Therefore, banks should list clearly the criteria for approving loans for enterprises to serve as reference for interested SMEs. Between May and November this year, as many as 5 000 applications have been received under the

Special Concessionary Measures, yet the application period of a total of nine months for the current concessionary measures will end on 28 February 2013. In view of the enthusiastic response, I suggest the Government consider extending the application period of the Special Concessionary Measures by one year and reviewing the implementation period of the Scheme in the light of the economic conditions. Banks are the major channels for SMEs to secure finance, so the Government is obliged to ensure that banks will provide SMES with stable and continued loan support to enable SMEs to face a possible economic downturn. Banks should not tighten credit arbitrarily but should maintain the original criteria for approval, and they should set up an interest rate cap, so as to help SMEs weather the cold snap in economy, which may strike at any time, and facilitate the prosperous development of the local economy.

President, I so submit.

MR LEE CHEUK-YAN (in Cantonese): President, on behalf of the Labour Party, I support today's motion on "Small and Medium Enterprises Financing Guarantee Scheme".

Why do we support the motion? For we earnestly hope that the vicious cycle in Hong Kong will be broken, the cycle that large enterprises or large consortia bully SMEs and SMEs bully workers. When workers request the prescription of minimum wage and standard working hours, SMEs disagree. Yet the problems faced by SMEs have not been addressed. As a result, both workers and SMEs suffer. They suffer together for they have been exploited through and through. We must break this vicious cycle. Otherwise, all issues in Hong Kong will boil down to the struggle between SMEs and workers, whereas large consortia may detach themselves from all these struggles and simply wait for SMEs to press the workers. Indeed, it is most unfair and unhealthy, and society will never achieve harmony. Nowadays, we often talk about the disparity between the rich and the poor. The main reason should be attributed to the over concentration of wealth in a small number of family-based consortia. If this kind of monopoly is not broken up, SMEs will never be able to develop in the economy of Hong Kong and workers or wage earners will always be suppressed.

The Scheme indeed projects the shadow of large consortia, for it is launched and approved by banks, where banks benefit the most from it. Certainly, we can say that banks have to provide the funds, yet the nature of business of banks is to make profit from providing loans. At present, they are offered more businesses, where 80% of the loan amount is guaranteed and the interest rate charged is decided by banks. At the same time, the Government will bear the risk by providing 80% loan guarantee, which means the Government will undertake 80% of the loan amount in case of any event. Of course, we may say that banks will also suffer 20% loss and they have to bear the risk. I dare not say that they are not bearing any risk in providing such loans, but since 80% of the loan amount is guaranteed, the risk for such loans is significantly lower.

However, has the interest rate charged by banks reflected the lower risk? Has the authorities assessed this? At present, the interest rates charged for various loans are similar. In other words, whether or not the loan is provided with guarantee, the interest rate charged is more or less the same. Guaranteed loans are not offered lower interest rates. The Government has obviously been exploited and taken advantage of, has it not? However, the Government takes delight in being taken advantage of. To put it bluntly, it is collusion between the Government and the business sector, a phrase the Government dislikes. A euphemistic way of saying this is that the Government has been taken advantage of when it actually wants to address the problem out of good intentions. In fact, has the Secretary assessed whether the interest rates charged by banks are fair and whether these can truly reflect the risk borne by banks? Or that the interest rates are not a means to reflect the risk borne by banks but one to enable banks to make more profit? Besides, the vetting power of loans is vested with banks but not the Government which is providing 80% loan guarantee. In the past, we often criticized banks for requiring "bricks and mortar" as the prerequisite for granting loans, but now they count on the 80% loan guarantee offered by the Government, for they are only required to bear 20% risk of the loan amount.

In Hong Kong, we really lack a culture of venture capital, which is the capital for innovation. It refers to the finance offered to a business based on the business ideas of a person. This kind of offer is unavailable in Hong Kong. The most important criterion is whether the person possesses any "bricks and mortar". This is after all the prevailing culture. Therefore, in my view, though the objective of the Scheme is to assist SMEs, the Government offers assistance to banks first. This is the drawback of the Scheme. Banks are the first to

benefit from the Scheme, for they are allowed to make profit from the Scheme. This case is similar to that of the Mandatory Provident Fund, where trustees are allowed to make profit first though the objective is claimed to be providing support to workers at their retirement.

President, SMEs face many problems today. They cannot take out labour insurance even if they want to. According to Mr Tommy CHEUNG, the Government is talking nonsense here. It says that it will address the problem and the Employees' Compensation Insurance Residual Scheme has been put in place. However, in actuality, despite the lower incidence rate of injury at work, insurance premium has increased by five to six times. It is unacceptable. Again, it is the result of the Government's slackness, for it has simply been waiting idly. Therefore, in respect of many issues, we do want to join hands with SMEs to change the system. We hope that with the joint effort of wage earners and SMEs, they may come up with a method to assist SMEs in coping with the burden in operation, instead of provoking the infighting between workers and SMEs. We earnestly hope to make this change.

President, actually, much can be done. One of the most important aspects is definitely rents. We should think of ways to tell the real estate hegemonists loud and clear that if the problem of high rent is allowed to run its course, it will ruin Hong Kong. They may be making more profit for the time being, but once the economy goes downhill, it will failure for all. By then, many companies will be forced to close down due to the high rents, and it will be impossible to rent out those premises. We hope to speak for them and request rent reduction.

On the other hand, we hope that legislation will be enacted to monitor concession contracts. At present, contracts made by large consortia with franchisees perpetrate unequal treatment. These are contracts of inequality on which the Government should impose regulation. At present, laws on regulating franchise operation have been put in place on the Mainland, ensuring that profits of SMEs engaging in franchise operation will not be exploited by large consortia. Actually, a lot can be done. We think that all parties can work together to address these issues, for it is, by all accounts, better than SMEs making attempts to lower the wages and extend the working hours of workers to struggle for survival. The real concern about survival in Hong Kong should be the survival of Hong Kong people, the survival of SMEs and the survival of wage earners.

Why can they not survive? For Hong Kong society as a whole has been monopolized by large consortia,

President, today, I truly hope that this situation will be averted. Now, SMEs and workers should stop the infighting, and they should make joint efforts to strive for their right to enjoy the fruits of prosperity. Therefore, today, we give our unequivocal support to the motion and amendments, ensuring that there will be room for survival for SMEs continuously. Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, it is a waste of time to talk about kindness, righteousness or morality with bankers or people who earn interest through lending. Shakespeare has said all in *The Merchant of Venice*, has he not? Or SMEs may have to acquire an ability, namely, that of not letting any blood even if a pound of flesh is cut out and not letting any blood either when a pound of flesh is taken back. Of course, this kind of thing does not exist in reality.

Banks certainly served useful purposes before they attained the present position of being plutocrats that attract the berating of all people. As we all know, the Agricultural Bank of China, the stocks of which are the subject of frenetic speculation in the market now, does business with farmers. Buddy, if you have no money to buy agricultural pesticides or tractors, you can take loans out from it. It deals in particular with farmers and in sum, it takes care of all matters relating to the three rural issues. This is the inherent purpose that banks should serve but now, all banks have become "i-banks", that is, all of them have to become international investment banks before they are considered having made the grade, otherwise, their ratings may be downgraded and in that event, what are they going to do?

In fact, I think the Government is actually quite well-intentioned in implementing the Scheme, that is, if someone cannot borrow money in the loan market, the Government will find ways to enable him to borrow money. Such an approach is really correct, buddy. President, I also understand this point because often, some people would ask me if I needed to borrow money and in reply, I would ask them to lend me \$200 million. In that event, the caller would hang up. This is true. When I said I wanted to borrow \$200,000, they would

say that this could be discussed and ask me about my occupation. I would reply that I am a Member and they would tell me to stop joking. I would then say that I am really a Member. I am a Member, so of course, I can borrow \$200,000. Therefore, we can consider this matter from this angle: At present, banks have a lot of money but they are unable to perform their function of providing social services to the fullest. This is really a perplexity of modern capitalism of monopoly, that is, every now and then, banks would kill all their clients because of their avarice. Frankly speaking, in the past, so long as factory owners owned properties, they would be fine. They would say to banks, "Buddy, I have a property, so are you going to extend a collateral loan to me?" Banks would be very happy so long as they could have the property as security, but without any property, they would not be so happy, is that right?

Therefore, on this issue, I think the Government definitely must not finance SMEs according to commercial principles. It must adopt the principle of not incurring losses or providing a small amount of subsidy. Only in this way can SMEs survive. For example, in the past, I said in the Legislative Council Building that whenever the Government introduced a measure, banks would also think up new tactics. By that I do not mean the throwing of bananas, but strange or irregular tactics. If there are good offers, for example, loan schemes with very favourable terms, clients should be able to get loans for their own use successfully. But banks surely will not notify "bad clients", for example, such people as Mr Gary FAN, who are not "desirable" clients but such desirable clients as "FAN Changjiang", telling him that there are good offers now, that the Government would subsidize banks and that banks only have to bear 20% of the risks, whereas someone would offer a subsidy of 80%, asking him to come quickly to draw loans, whereas that Mr Gary FAN cannot do so. When he comes to borrow money, his application is turned down. If the scheme is implemented through banks, banks will surely let their own people benefit from it. I do not mean the banks themselves would benefit from it but their "desirable" clients because only in this way can they keep their clients. Therefore, at that time, I already said that if the Government provided the money but did not exercise any supervision, that would turn bankers into mice given the charge of watching over the rice urn. Would something like this ever happen, Mr Gary FAN? Of course not.

Banks are "rentier" and belong to the meanest type of people in the capitalist chain. They are not engaged in production and only live on interest, so

it would not work to ask banks to undertake this task. If our Government really wants to undertake this task, there are only two options, one being setting up its own bank called bank for SMEs and this is not entirely impossible. President, if the entire flow, such as the rate of discount, is put under the responsibility of a single bank, given Hong Kong's present reserve of \$2,600 billion, that would really be splendid. As pointed out by *The Economist* — and I read each issue of it — this is practically a miracle. Even looking at the zeros when calculating this sum of \$2,600 billion would cause one to become dizzy. If we really want to assist SMEs, I propose that a bank for SMEs be established. In fact, there are such banks and the Bank Of Communications is one of them, is it not? The speculation on its stocks in the stock market now is feverish, but in the past, it was only concerned with transport-related business.

In fact, we can tell from the remnants in the names of banks that this kind of banks originally existed to cater to various enterprises and industries and assist workers and farmers. Unfortunately, the nature of our regime is such that it has made real estate and finance as the mainstay. Buddy, the flow of Renminbi is so great that it has to find its way into Hong Kong and it is said that it has to be retained, so that the Renminbi market can be created in these circumstances for the purpose of speculation. Recently, someone asked me to apply for a Renminbi credit card. I said I was not allowed to go to the Mainland. He then said that I could give it to others as a gift and let others pay on credit for me, that is, to apply for a supplementary card. Since there are both the principal card and supplementary card, they can both be used to pay on credit at the same time. If I cannot visit the Mainland, I can let others pay on credit for me. He also said that since I love to buy books so much, it would be cheaper to pay on credit for them on the Mainland.

Buddy, this is practically excessive liquidity. For this reason, I think that first, the Government has to sort out the industries in which SMEs are engaged in Hong Kong from a macro perspective, examine how best to assist industries that are too weak to be nourished and determine which industries are viable. Frankly, the provision of loans is not the only way. One can also offer them discounted cash flow, can one not, buddy? The Germans are the best at this. They do not have any problem if they want to buy something. There is only the Deutsche Bank and it lends money at low interest rates to people to buy things. The Japanese also do the same, but do we have such an arrangement? Of

course, at present, the number of our products has decreased, so there is no need to do so.

However, honestly, no matter how I think about this, I think that the Government has to be serious about establishing such a bank properly and let Prof K C CHAN look into this matter when he has time. Only in this way can people be assisted and our Government can really acquire a kind of leverage, rather than relying on banks that are practically incompetent to use the concessions offered by the Government to continue to make money, thus bringing utter ruin to people taking out loans.

President, in giving my speech, I hope that a bank for SMEs can be established to formally benefit SMEs in Hong Kong.

SUSPENSION OF MEETING

PRESIDENT (in Cantonese): I now suspend the meeting until 9 am tomorrow.

Suspended accordingly at three minutes to Ten o'clock.