

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 1 March 2012

The Council continued to meet at Nine o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

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

THE HONOURABLE LEE CHEUK-YAN

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

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

DR THE HONOURABLE MARGARET NG

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE CHEUNG MAN-KWONG

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

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

THE HONOURABLE LAU KONG-WAH, J.P.

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

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

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

THE HONOURABLE ANDREW CHENG KAR-FOO

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

THE HONOURABLE LEE WING-TAT

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

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

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

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

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

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

THE HONOURABLE CHIM PUI-CHUNG

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

THE HONOURABLE KAM NAI-WAI, M.H.

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN

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

THE HONOURABLE CHAN KIN-POR, J.P.

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

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

THE HONOURABLE WONG SING-CHI

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

THE HONOURABLE IP WAI-MING, M.H.

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

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

DR THE HONOURABLE PAN PEY-CHYOU

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE TANYA CHAN

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

MEMBERS ABSENT:

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE TIMOTHY FOK TSUN-TING, G.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.

PUBLIC OFFICERS ATTENDING:

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

THE SECRETARY FOR JUSTICE

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

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

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

CLERKS IN ATTENDANCE:

MRS JUSTINA LAM CHENG BO-LING, ASSISTANT SECRETARY
GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Good morning, Council will now resume. Fourth Members' motion: Motion for the adjournment of the Council under Rule 16(2) of the Rules of Procedure.

PRESIDENT (in Cantonese): Ms Cyd HO has proposed a motion for adjournment under Rule 16(2) of the Rules of Procedure for the purpose of debating the following issue: the integrity and probity of the Chief Executive and his responsibility for upholding the fairness and impartiality of the next Chief Executive Election to be held on 25 March.

The mover of motion and other Members may each speak for up to 15 minutes.

Members who wish to speak will please press the "Request to speak" button.

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

MOTION FOR THE ADJOURNMENT OF THE COUNCIL UNDER RULE 16(2) OF THE RULES OF PROCEDURE

MS CYD HO (in Cantonese): I move that this Council do now adjourn for the purpose of debating the integrity and probity of the Chief Executive and his responsibility for upholding the fairness and impartiality of the next Chief Executive Election to be held on 25 March.

President, actually, the election to be held on 25 March is unfair from beginning to end. It is a small-circle election, in which only 1 200 people can vote. As the other 7.07 million people are excluded, how can it be fair? However, the Chief Executive is to be held accountable because he rolled out a retrogressive constitutional reform package in 2010. Therefore, he has broken his election pledge on this count.

President, the outcome really relies on the god's words whispered in one's ear. If one will only vote according to the voice one hears, how can this be called an election? However, with such a fierce battle vying for the post going on, at least we demand the Chief Executive to remain neutral and avoid showing favouritism towards either side in dealing with the two scandal-plagued candidates in order to maintain his impartiality. However, in such a sensitive moment, in such a fierce moment, the close association of the Chief Executive with an active supporter of one camp has been exposed. They are on such close terms that the Chief Executive can stay overnight on the tycoon's private yacht. Moreover, the yacht-stay in Macao revealed by the media is not a one-off incident. The Chief Executive has himself disclosed a three-night stay on a friend's yacht in Thailand. However, what is the identity of this friend? Will he get any benefits in business through his association with the Chief Executive? This has remained unknown so far.

Moreover, the luxury apartment in Shenzhen where the Chief Executive has planned to live after retirement from office is, of course, another concern. According to the Chief Executive, he has paid an annual rental of \$1 million for this luxury apartment of 6 000 sq ft. Mr WONG Cho-bau, a large shareholder of the group that owns this property, also has a major stake in the Digital Broadcasting Corporation (DBC). Upon the grant of the licence by the Chief Executive and the Executive Council, why can the Chief Executive completely shirk the responsibility by simply saying "he was careless"? In the past, when other civil servants were charged by the Independent Commission Against Corruption (ICAC), could they also completely shirk the responsibility by simply saying "they were careless"?

It is also reported that a D6 officer was reprimanded for the acceptance of a ferry ticket bought for him upon the insistence of the Macao Government for his return journey to Hong Kong. To these civil servants, how can their feeling bear such a blow? However, surprisingly, our Chief Executive has taken everything, big or small. Apart from a luxury apartment of 6 000 sq ft, and a flight on a private jet at the cost of economy class fare, a treadmill is also involved. Actually, a person with common sense — a normal, reasonable person with general knowledge will never consider such behaviour of the Chief Executive as clean and impartial. However, recent reports have shown us that there is no most rotten but more and more rotten.

As to the question of whether the Chief Executive has practised favouritism out of his personal interests in handling breaches of the candidates and the licensing of the DBC, there are many question marks in the minds of the public. The public may also ask: As the Chief Executive and the supporter of the TANG camp stayed on the same yacht for such a long time, would someone have asked him explicitly or implicitly to relax a bit here and tighten up a bit there? Therefore, at this sensitive moment, the Chief Executive absolutely should not mix with either of the two camps to give people a chance to query whether he has practised favouritism towards either side.

Of course, the Chief Executive may say that he has known members of the three camps for a long time, so it is impossible for him not to meet them. It is true that one has to make sacrifices when one holds public office. As he has the highest authority in the SAR and the full responsibility for governing Hong Kong, it must have an impact on his private life. The same also applies to Members and civil servants. So, why should the Chief Executive be an exception? While the Chief Executive says that it is impossible for him not to meet these private friends of his, we can see that he totally evades communication with Members despite it is one of his official duties. I do not know how it goes with the other political parties and groupings. At least Members in the Labour Party and the Civic Party meet with him only once every year on the consultation of the political platform. And, every time the meeting only lasts five minutes. He can evade his official duty and Members in the democratic camp so effectively by meeting with them only once a year. Then why can he not evade all the same and demonstrate honesty in performing his official duties for several months at this sensitive moment?

The Chief Executive is the head of the SAR. He should have the strictest demand on himself. However, how did he react in face of the exposure of his scandals? On the first day, he asked people not to engage in conspiracy theories and in-fighting. Such a response is an attempt to isolate the small number of critics against him and treat criticism and supervision as mud-slinging and meaningless in-fighting. This is an insult to the people; to the relentless demand made by several generations in Hong Kong for clean government. In the 1950s to 1970s, corruption was prevalent in Hong Kong. The situation was so difficult that an amount of money had to be paid even for the recommendation for a government job. In the police force, police officers found banknotes in their drawers every day when they were off duty. Those who did not dare to accept

the money did not dare to speak up as well. They just secretly put those banknotes under the Guandi statue in the police station, which eventually turned into the embryonic form of the police children fund. Those who did not dare to accept the money would really be transferred to Lantau Island to patrol the reservoir or Sha Tau Kok. In the wake of the 1967 riots, the colonial Government seriously reviewed the situation and set up the ICAC to fight against corruption and captured GODBER, then stopping the masses' sufferings in daily life due to the extensive corruption of the police force. However, corruption at the high level; corruption related to transfer of benefits by fact of authority; corruption unknown to the masses has still existed. As a result, without our knowledge, money made by the masses with their sweat and blood has fallen into the hands of the financial groups and monopoly groups through transfer of benefits by policies tilted in favour of these groups.

Therefore, President, we are talking about anti-corruption today because we do not want to go backwards. When the Government publicizes itself, it says with pride that after clearing the Customs in Shenzhen, people can see a very large poster on our side of the Lo Wu Bridge, written on it the slogan "Hong Kong Our Advantage is ICAC" ("香港勝在有ICAC"). However, the incumbent Chief Executive of Hong Kong has been revealed to be corrupt to such an extent.

Subsequently, the Chief Executive was interviewed by Commercial Radio on Saturday. This is an interview conducted after the exposure of the luxury apartment in Shenzhen. He shifted all the blame to his wife concerning the rental of such a luxury apartment of 6 000 sq ft and took on an air of a good husband. However, President, as a woman, I absolutely cannot accept such an explanation. He said that his wife kept the clothes she had before marriage till now and he could not bear throwing them away. I really cannot accept it. I only find it despising that another Hong Kong male has used a woman as a shield and hid behind her.

Lately, the Chief Executive has claimed that he has not violated any rules and regulations, just that people have excessively high expectations. However, I wish to remind the Chief Executive that he made the following oath when he assumed office: "..... serve the Hong Kong Special Administrative Region conscientiously, dutifully, in full accordance with the law, honestly and with integrity". He may say that the definition of "honestly and with integrity" covers

a wide range of areas and he has already observed the lowest standards. However, President, I have in my hand now a copy of G.N.3845 promulgated by the Chief Executive's Office. This is the Code for Principal Officials under the Accountability System promulgated by the Chief Executive's Office. We can see how "honestly and with integrity" is defined by his Office.

I wish to read out some of the provisions. "Principal officials shall observe the highest standards of personal conduct and integrity at all times." Please note the term "at all times", meaning it applies to both the office hours and the private life of Principal Officials. "Principal officials shall promote and support the above principles by leadership and example." "Where the circumstances are not prescribed principal officials shall seek the advice of the Chief Executive." If one should seek the advice of the Chief Executive now, he can really say whatever he likes. "Principal officials shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest." Bingo! All the boxes are ticked, for all kinds of suspicions have been raised. "Principal officials shall refrain from handling cases with actual or potential conflict of interest." So, declaration of interest is necessary. "Principal officials shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgment in the performance of their duties." Regrettably, as the Chief Executive himself does not act like a straight beam, how can he regulate principal officials to follow this set of code to do things "honestly and with integrity".

Some provisions under the Prevention of Bribery Ordinance also serve to govern the Chief Executive. It is stipulated that if the Chief Executive, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his following acts, he shall be guilty of an offence. Therefore, President, I absolutely do not accept the Chief Executive's claim that he has not violated any rules and regulations and that it is just that people have excessively high expectations.

In his reply to the urgent question yesterday, the Chief Executive refused to provide information on grounds of privacy protection. This is extremely ridiculous. "Abusing power for personal gains" is an offence. As stipulated in the Prevention of Bribery Ordinance, "Any person who, being or having been the Chief Executive or a prescribed officer maintains a standard of living above that which is commensurate with his present or past official emoluments", it

suffices to be seen as abusing power for personal gains. Abusing power for personal gains means using one's power to transfer benefits in exchange for undue enjoyment in one's private life. However, if the Chief Executive declines to disclose such information on grounds of privacy protection, it is really extremely ridiculous.

Power corrupts. Corruption is the worst of all vices in governance. The Chief Executive's sophistry is an insult to the public's expectation of clean government; an insult to the value of clean government tirelessly built up by several generations of Hong Kong people, which also shows us the speedy integration of Hong Kong government officials with the Mainland corruption culture. I have especially high expectation of the Chief Executive, particularly Donald TSANG. It is because he has gone through the long training of the colonial civil official system. And, he always speaks with assurance that a clean team of civil servants is the advantage of Hong Kong. However, how can he find an explanation now? How can he tell the public that he has observed the lowest standards without violating any rules and regulations? His remarks are utterly shameless sophistry.

Power really corrupts. The Basic Law has provided for the proceedings of impeachment. However, why am I opposed to initiating them now? It is because the motion of impeachment is also required to go through the separate voting system in this Council. If the motion of impeachment fails to pass, the Legislative Council, after passing a motion for investigation, has to give a mandate to the Chief Justice of the Court of Final Appeal to form an independent investigation committee. Then the whole case will be handled behind closed doors till the report is completed. On the contrary, if we have enough number of Members in support of launching an investigation, a select committee should be formed by invoking the Legislative Council (Powers and Privileges) Ordinance. Through the open and media-broadcast inquiry conducted by the committee, all members of the public can see how we question the officials and summon the witnesses before us, and they can also see the evidence provided by the witnesses. During the proceedings, members of the public who sit in on the inquiry or the media may even have access to some of the documents. In this way, the whole procedure will be more open and transparent. Upon the completion of the investigation and the report of this Council, the proceedings of impeachment can be initiated all the same. Or, criminal investigations will be carried out simultaneously by the other organizations.

In addition to our expectation for the Chief Executive's integrity and honesty, I also hope that the Election Committee (EC) members in the democratic camp will seek the cause in themselves and present their integrity and honesty for public scrutiny. We have always objected to the enactment of legislation on Article 23 of the Basic Law because it will exploit the civic right of Hong Kong people fundamentally. And, we have always advocated the abolition of functional constituencies. However, the two current Chief Executive candidates, no matter who is elected eventually, have made no promise of or demand for these issues. Therefore, if the EC members in the democratic camp think that a great opportunity is about to arrive by their exchange of the 1 200 privilege votes for more power in future policymaking, this may also be seen as some kind of "graft".

In the event that after either one of these two candidates is elected, he introduces legislation on Article 23 of the Basic Law and insists on retaining the functional constituencies, these EC members should feel ashamed before the electors in breaking our promise and abandoning our integrity (*The buzzer sounded*)

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

Ms Cyd HO moved the following motion: (Translation)

"That this Council do now adjourn for the purpose of debating the following issue: the integrity and probity of the Chief Executive and his responsibility for upholding the fairness and impartiality of the next Chief Executive Election to be held on 25 March."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That this Council do now adjourn.

SECRETARY FOR CONSTITUTIONAL AND MAINLAND AFFAIRS (in Cantonese): President, on behalf of the SAR Government, I wish to reply to Ms HO's motion of adjournment.

Ms HO's motion mentioned "the integrity and probity of the Chief Executive and his responsibility for upholding the fairness and impartiality of the next Chief Executive Election to be held on 25 March". I will speak on the institutional arrangements related to these two parts.

First of all, regarding issues relating to the declaration of interests and avoidance of conflict of interest by the Chief Executive, there are currently four major regulations, including: (1) the Basic Law; (2) local legislation; (3) "Code for Officials under the Political Appointment System" (the Code) and administrative arrangements; as well as (4) monitoring by the public and public opinion.

Firstly, Article 47 of the Basic Law provides that the Chief Executive 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. This declaration shall be put on record. Article 104 of the Basic Law also provides that when assuming office, the Chief Executive must take an oath or affirmation in accordance with law.

Secondly, in local legislation, section 16A of the Oaths and Declarations Ordinance provides that a person elected as the Chief Executive shall swear to serve the Hong Kong Special Administrative Region in full accordance with the law, honestly and with integrity.

In addition, sections 4 and 5 of the Prevention of Bribery Ordinance (POBO) provide that the Chief Executive will commit an offence if he solicits or accepts any bribes. Any person who offers any bribes to the Chief Executive will also commit an offence. Section 10 of the POBO provides that if any Chief Executive or former Chief Executive maintains a standard of living or controls property disproportionate to his income that he cannot satisfactorily explain to the court, he will be guilty of an offence. At the same time, the Chief Executive is also subject to the common law offence of bribery.

Section 3 of the POBO provides that any prescribed officer, who without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence. When the POBO was amended in 2008, the Administration did not make section 3 of the POBO applicable to the Chief Executive, for the consideration that section 3 obviously only applies to persons

over whom the Chief Executive has authority. The Chief Executive cannot possibly grant permission to himself. This poses structural difficulties in placing the Chief Executive within the framework of the offence in section 3. In addition, section 3 is premised on the existence of a principal-agent relationship. The Chief Executive is not an agent of the SAR Government and has no equivalent principal within the Government. Therefore, the Administration then decided that section 3 should not apply to the Chief Executive.

Thirdly, the Chief Executive is not an official under the Political Appointment System and being the President of the Executive Council, he is not an Executive Council Member. Nonetheless, the Chief Executive has always been voluntarily subject to the principles and spirit of the Code and the declaration arrangements for Executive Council Members of his own volition.

The Code requires that politically appointed officials shall observe the highest standards of personal conduct and integrity at all times; shall ensure that no actual or potential conflict arises between their public duties and their private interests; and shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest.

The Code also provides that politically appointed officials shall refrain from handling cases with actual or potential conflict of interest. Politically appointed officials shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgment in the performance of their duties.

According to the Code, politically appointed officials shall declare their investments and interests for the purpose of securing public trust and confidence. The declaration will be made available for public inspection on request.

The Code stresses that politically appointed officials are subject to the relevant provisions in the POBO and the Independent Commission Against Corruption Ordinance, and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits.

The Code provides that politically appointed officials shall avoid accepting any gift or hospitality which might or might reasonably appear to compromise

their judgment or place them under an improper obligation. Politically appointed officials shall take note of the relevant provisions in law and the following before accepting any such offer:

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

It is stated in the Code that a politically appointed official shall not accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature, or of the relationship between the official and the other person, or of the character of that person:

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

The Code also provides that politically appointed officials are required to keep a register of any gift, advantage, payment, sponsorship or any material benefit received by them or their spouses which in any way relates to their office as politically appointed officials. The register will be made available for public inspection on request.

The Code also provides that if a politically appointed official wishes to accept the sponsorship in relation to an invitation from another government or an outside organization to make a sponsored visit in his official capacity, he shall seek permission from the Chief Executive.

The Chief Executive is not an official under the Political Appointment System and is not subject to the Code. Nonetheless, the Chief Executive always

abides by the principles and spirit of the Code. For example, all gifts of an estimated value exceeding HK\$400 presented to the Chief Executive will be registered and the relevant information will be uploaded onto the website of the office of the Chief Executive for public inspection.

The main purpose of the system of declaration of interest for the Executive Council is to ensure that the Executive Council Members are fair, disinterested, impartial and unbiased in providing advice to the Chief Executive. Under the current system, the Executive Council Members are required to declare their interests at specified intervals, so that members of the public as well as the Administration can monitor whether any Executive Council Member has obtained benefits in his/her official capacity, who has access to undisclosed information. Specifically, all Executive Council Members are required to register their personal interests annually. Any changes to their registered interests should be reported within 14 days. All this information will be uploaded onto the Executive Council website for public inspection. The Executive Council Members are also required to declare to the Chief Executive in confidence greater details of their financial interests annually. Any changes to the interests declared as well as any currency transactions exceeding HK\$200,000 should be reported within two trading days after their occurrence.

In addition, under the current system of declaration of interests, in case an Executive Council Member has material personal interest in an item to be considered by the Executive Council, he/she should withdraw from the discussion. This can effectively prevent him/her from obtaining benefits with the access to undisclosed information.

The Chief Executive always takes the initiative to declare his interests regularly as required and has the information uploaded onto the Executive Council website for public inspection.

Fourthly, as a public figure, the Chief Executive's words and deeds are subjected to the scrutiny of public opinions. The Chief Executive attends regularly the Question and Answer Sessions in the Legislative Council to answer questions put to him by Members. Politically appointed officials will also attend the Legislative Council meetings to answer questions raised by Members. Hong Kong is a place where people have adequate freedom of expression and press

freedom. The behaviour and administration of the Chief Executive and politically appointed officials are closely monitored by the civil society and the mass media.

President, although there is currently a set of provisions and administrative procedures to regulate the Chief Executive in respect of the arrangements to avoid any conflict of interest, we have to reflect on whether or not the existing systems for declaration of interest and avoidance of conflict of interest can tie in with the existing constitutional framework and whether or not they can meet the latest political and social situation, and whether or not they can meet public aspirations and demand.

A few days ago, the Chief Executive set up a five-man Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests, which will be chaired by the former Chief Justice of the Court of Final Appeal, the Honourable Andrew LI. The Committee will review the existing regulatory frameworks and procedures for the prevention and handling of potential conflict of interest (including the arrangements for declaration of investments, interests and acceptance of advantage, entertainment and hospitality) concerning the Chief Executive, Non-Official Members of the Executive Council and Officials under the Political Appointment System, and make recommendations on improvement measures. The Committee will submit a report with recommendations to the Chief Executive in around three months' time.

President, next, I will respond to a few points on maintaining the electoral system for the Chief Executive.

The Government has all along attached great importance to upholding the dignity and credibility of the electoral system. At present, there are five safeguards in the system:

First, Hong Kong has stringent and clear electoral legislation and relevant guidelines to regulate all electoral arrangements in order to ensure that all elections are conducted in accordance with the law and in a fair, just and honest manner.

Second, in the laws of Hong Kong, there is an independent, impartial and apolitical Electoral Affairs Commission, with a Judge of the High Court as its Chairman, to ensure that all public elections in Hong Kong are always based on the rule of law, strict and impartial.

Third, the Registration and Electoral Office is comprised of a professional and politically neutral civil service, who will assist the Electoral Affairs Commission in organizing and supervising all elections with political neutrality, impartiality and without prejudice and biases.

Fourth, Hong Kong is a society where the rule of law prevails. There is a robust judicial system. The law-enforcement agencies concerned will deal with any suspected case of breach of the relevant electoral legislation seriously in accordance with the legislation.

Fifth, if a person has a reasonable doubt about the result of an election, there is a well-established mechanism for the person to lodge an election petition.

Based on this foundation consisting of five safeguards, we will continue to uphold and protect the fairness and impartiality of the electoral system in Hong Kong.

President, in December 2007, the Standing Committee of the National People's Congress provided a timetable for universal suffrage in the SAR. The Chief Executive may be elected by universal suffrage in 2017, and all Legislative Council Members may also be elected by universal suffrage in 2020. The timetable for universal suffrage has been made clear. The fourth Chief Executive after assuming office has to deal with the issue of electoral arrangements to bring in universal suffrage for the elections of Legislative Council Members in 2016 and Chief Executive in 2017.

President, I think that in order to put in place universal suffrage, in the progress towards democracy, we cannot rely solely on making changes to the electoral system. Public expectation and demand for transparency in the formulation of public policies and administration, as well as the ethics of public officers, are ever increasing. With social progress and the development of a democratic system, the public believe that there should be a more comprehensive mechanism to monitor the ethics of the Government, civil servants, accountability

officials and even the Chief Executive. This is understandable, inevitable and necessary.

The Chief Executive has already established an Independent Review Committee to review the existing mechanism and make recommendations on improvement measures. The Administration will work with it fully in concert, with a view to enhancing the existing mechanism and preserving public confidence in the probity, impartiality and transparency of the Government.

President, I so submit.

MS EMILY LAU (in Cantonese): President, first of all, I wish to declare that I have nominated Mr Albert HO to run in the small-circle Chief Executive Election. And, I also wish to declare that I object to small-circle election.

President, you made a prediction at suspending the meeting yesterday that this debate today may take six hours, just like the motion debate on "West Kowloon". I believe your prediction may be correct. But it may also be wrong because this debate may take an even longer time. Because this incident has not only caused widespread concern in the community of Hong Kong, but also the interest of the international community. As early as around six this morning, I was woken up by a call from Australia as a radio station there wanted to have a live interview with me. And, I was also interviewed by a reporter of a United States radio station yesterday afternoon. Moreover, a large group of journalists from *The Economist* had a meeting with us two days ago.

The chances of a Hong Kong election turning into an international focus are actually slim. I saw earlier the Wukan village election — actually it is not exactly an election but just an election of a committee to conduct an election — make the headlines in the *Financial Times* and the *International Herald Tribune* with a large photo. It is because the Mainland's democratic development has always been an international concern. However, it is really a bit shocking that so many corruption scandals have broken out in Hong Kong. Why? The Secretary has read out just now so many laws and regulations. We, of course, have all assumed that a regulatory effect can thus be achieved. So, even though in the absence of one-man-one-vote election by universal suffrage, an election

can be carried out in a relatively clean and disciplined manner. However, what we can see now is a messy election.

Moreover, the three top-level officials of the Hong Kong Special Administrative Region (HKSAR) — the Chief Executive, the former Chief Secretary for Administration and the former Convener of the Executive Council — have all been subjected to so many queries. A motion was passed yesterday in this Council to form a committee to investigate LEUNG Chun-ying. Regarding the unauthorized building works and other issues involving Henry TANG, the relevant panel is about to call a meeting. And, Secretary Carrie LAM has agreed to attend the meeting to give accounts. Many people are waiting for the time of his arrest. However, before his arrest, it transpires that every residence in that street in Kowloon Tong has a cellar built underground. The residence of Henry TANG is just opposite to the Liaison Office of the Central People's Government (LOCPG) in the HKSAR. Therefore, members of the public may ask: Will the cellar beneath the LOCPG in the HKSAR be as big as 2 000 sq ft, 3 000 sq ft? Many living on the Peak also have a cellar built beneath their residences. Residences everywhere in the Southern District and the New Territories also have a cellar built underground. Why has Hong Kong come to this pass? Therefore, many issues warrant a review by us.

Nominations for the Chief Executive Election closed yesterday. A total of three people are "allowed into the stalls". Mr Albert HO has got 188 nominations. However, he has already made it clear that he has no chance to win. His participation in the election only aims to tear away its false facade. Henry TANG has got 390 nominations and LEUNG Chun-ying 305. Three hundred and eleven Election Committee members have remained undecided. We still do not know which candidate will win. Some people consider it quite strange because it is now less than a month from the official polling date, why do we still not know the answer? Why has Beijing still not made a decision? However, I have won. I have won a meal. I believe the President will also remember that when we entertained Mr Allen LEE and some other people earlier at a banquet, he insisted then on making a bet with me because few were willing to do so. What was the wager on? He bets that LEUNG Chun-ying would definitely not be "allowed into the stall" — Allen, you have to treat me to a meal quick because you are wrong. I believe Allen dare not say who will win now. Or, perhaps as the President said on Monday, an abortive election is possible.

What the Chief Executive did has not only angered the people of Hong Kong, but also made civil servants boil with indignation. He sent civil servants a letter on the 28th. What has he written in the letter? He said that in the 45 years as a civil servant, it has never crossed his mind that he has to give accounts of his most cherished core value — integrity. He appreciates that integrity is the sound foundation for governing Hong Kong. He has claimed that he has the highest expectation for himself and his own integrity, as witnessed by those people who have been working with him for several decades. After the exposure of the incident, some of my friends at the level of directorate grade in the Civil Service called me, telling me that everyone in their offices were in an uproar because they long knew that this was the case and he was such a kind of man over the years.

The Chief Executive said that those who have been working with him know how he conducts himself. However, in the headlines in one of the newspapers today, it is reported that in the wake of SARS in 2003, as the Chief Secretary for Administration, he had to go to New York on the east coast of the United States to attend a publicity campaign organized by the Tourism Board to promote Hong Kong. He then requested a similar function be held in San Francisco because his son was studying there. It is reported that an additional \$6 million was thus incurred. Whether this is true or not is unknown because informants are indeed everywhere, meaning some are true and some are not. However, concerning the question of whether such reports are true or not, I hope that, apart from the investigation conducted by the ICAC, the committee led by former Chief Justice Andrew LI will also carry out an investigation. If the Legislative Council also conducts an investigation into these matters, I believe we will also find out the truth.

In fact, the response of civil servants can really be described as "more than heated" for they will cause serious suspicions even if they just accept a flag or a meal. However, the Chief Executive can do so much more. He can travel on a yacht, go to the casino, enjoy a sumptuous meal, fly on a jet, and even accept a treadmill, a used one, for that matter. We also have a treadmill. We should never accept such things as a gift. Although the treadmill was a complimentary gift from the tycoon's company, homes for the aged and other organizations are the usual recipients. Why did Government House vie with the needy for a used treadmill?

Yesterday, in the Secretary's replies on behalf of the Administration to several urgent questions raised by this Council, he said, "These questions shed light on and allow the Chief Executive to better understand that public servants must be 'whiter than white'". As the reply was in a mix of Chinese and English, the term "whiter than white" was used. Then he said, "The Chief Executive comes to the conclusion that there is a gap between the current rules, with which he has faithfully complied, and the expectations of Hong Kong people. In consequence, there has been disappointment from the community." Members of the public ask me: What rules has the Chief Executive faithfully complied with? The fact is that he has not complied with any at all. The Secretary has read out so many rules just now. If the Chief Executive has actually faithfully complied with the rules, how come we have all these problems now, President?

In fact, civil servants are not only angry with the Chief Executive, there is again a report today Frankly speaking, I really have to take my hat off to and sympathize with the reporters because they are working so hard that they do not even have the time to report for duty. However, they are certainly very excited because big news breaks every day. Today's report has revealed LEUNG Chun-ying's intimidation of civil servants, which concerns the competition discussed in the motion debate yesterday. As the Government submitted some documents involving information including LEUNG Chun-ying's reply to the Government, LEUNG Chun-ying wrote to the Government and accused it of distributing press releases concerning this incident, giving rise to doubts about the Government's neutrality in the election. What other things did he write? He demanded the Government reveal the identity of the civil servant responsible for handling such press releases and ascertained whether it was a breach of law for government sources to release information. Civil servants just go to the office to work. Now he has demanded to seek that person out. Therefore, the whole city is talking about white terror now. After this reply of his was sent, we chanced upon a tycoon when we were having congee one day. He told us that he would definitely migrate to other countries because he was afraid of white terror. Some people consider this move of LEUNG Chun-ying as "procuring a knife to kill people before coming to the throne".

President, you were right when you sighed with regret on Monday at why the election had come to this pass. This is really extremely terrible. The ICAC has indicated that an investigation is underway. The Democratic Party and many people have gone there to lodge complaints. It is good that an

investigation is being undertaken by the ICAC because the "Independent Commission Against Corruption" is a gold-lacquered brand. However, it is also reported that the Commissioner of the ICAC and WONG Cho-bau — in our complaint, WONG Cho-bau is precisely the mainland tycoon who has rented an apartment to Donald TSANG — have turned out to be golf buddies. And, the declaration of the former has been made several days late. Once we demanded an investigation into whether Donald TSANG and WONG Cho-bau had been involved in collusion between the Government and business as well as transfer of benefits, he should be the first to come out to make a declaration. Why does it take other people to reveal such an association? Even the investigation is carried out by the ICAC, it has turned out that its head behaves in this way. Moreover, his contract was secretly renewed by Donald TSANG several years ago. Therefore, President, is Hong Kong in a mess?

Many people say that corruption is prevalent in Taiwan. However, some think that President MA Ying-jeou, amid serious corruption of the Kuomintang and the Democratic Progressive Party, has managed to maintain a strict sense of probity. I wish to ask: How many public servants and powerful people in Hong Kong can maintain a strict sense of probity?

I have said on many occasions that a big problem lies in this election. As we are now a special administrative region of the People's Republic of China where power struggles in the Communist Party of China (CPC) are an ongoing process, especially when the "18th National Congress" is due to convene, many people are fighting for "a way up", it is inevitable that the HKSAR is drawn into the power struggle of the CPC, which is the fear of many Hong Kong people. President, do you know why Hong Kong people fear the CPC so much? Because the deaths of family members, relatives and friends of many people were caused by the CPC. The ancestors of mine and of many people fled to Hong Kong as refugees in the hope of getting away from the cruel power struggles. We are now again part of China. I very much hope that Hong Kong will not be tortured half dead by such cruel power struggles.

We can now see something on the table, but how about the power struggle beneath the table? It is reported in today's newspapers that during the NPC and CPPCC Sessions in Beijing, many people have gone north one after another to

make "tattletales", complaints, threats or pleas. It is also reported in today's newspapers that some tycoons have intended to cast blank ballots because some sources have indicated that LEUNG Chun-ying is likely to become the Chief Executive. However, as their aspirations are different from those of LEUNG Chun-ying, they definitely will not allow him to become the Chief Executive.

Actually, why is it a big deal as to who wishes to run and who wishes to be the Chief Executive? If Hong Kong people can vote, why do we have to bother about who will gain the support of the CPC? When 3.5 million registered voters can vote, just let us be the masters of our own house. However, what is saddening is that Hong Kong people cannot vote. A reporter from *The Washington Post* asked me last week whether the public opinion in Hong Kong could now play a role. I hope so.

A big rally will be held this coming Saturday. We hope that people will come out against corruption and small-circle elections to let the SAR, the Central Government and the international community know that Hong Kong people very much despise these practices; Hong Kong people very much wish to be the masters of our own house by being able to elect our SAR Government. I have never said that this is "our Government". When I hear some people say it, I will stop them and point out that this is not "my Government". Why? Because this Government is not elected by me. This is the "SAR Government", not "my Government".

One day, Hong Kong people and I will elect a government, no matter whether it is the one I support or not, through a "one-person, one-vote" popular and equal election. Then this is "my Government". The present one is just the "SAR Government" given to us by the Central Authorities. I do not know the outcome of the election to be held on 25 March. As to the question of whether it will be an abortive election, it is beyond my control. However, Hong Kong people will have a chance to express their opinion through the online voting to be held on 23 March by Dr Robert CHUNG of the University of Hong Kong. I hope that people will vote online on that day.

I have not yet been treated to a meal by Mr Allen LEE. But there may be another meal lining up. It is because someone has challenged me to another

wager. I do not know why so many people like to make bets. That someone is Executive Council Member Ronald ARCULLI. He bets that over 100 000 people will definitely vote online that day. If this is the case, I will lose. Otherwise, I will win. However, President, I very much wish that I will lose the bet with Mr ARCULLI. I do not know how big a capacity Dr Robert CHUNG's system can accommodate. He said that the system would slow down if 500 000 people were voting. I call on all Hong Kong people to vote on 23 March. I hope that Hong Kong will see the implementation of universal suffrage as soon as possible.

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

(No Member responded)

PRESIDENT (in Cantonese): Does any other Member wish to speak? Mr Ronny TONG, you may speak now.

MR RONNY TONG (in Cantonese): President, as no Member has raised his hand to indicate his intention to speak, I am now entrusted with the important task at this critical moment. Surely it does not mean that the meeting has to be adjourned owing to a lack of quorum, does it? President, the materials I wished to speak on had yet to be organized, and I was not prepared to speak yet. However, no Member had indicated his intention to speak. So what are we going to do? Do all Members of the Legislative Council get up late in the morning? President, we are discussing a very important subject, but they do not show up for the meeting. This is really astonishing.

President, first of all, I wish to clarify a few points. They must be clarified. First, the Chief Executive told the media that there had been changes in society in that the public had higher expectations of the Chief Executive. Sorry, I do not agree to this. The general public in Hong Kong has all along expected our Government to be an organization of integrity. This is clearly stated in the Basic Law. It was because of this that the Independent Commission Against Corruption (ICAC) was established. Thus, claiming that

the people of Hong Kong have higher expectations of the Chief Executive is just an attempt to justify himself.

President, the second point I wish to clarify is that many people (including the media) say that our Chief Executive should be "whiter than white". President, I do not agree to this. Now, we are only asking the Chief Executive not to turn "grey". What we are discussing is very plain and clear. We are not asking him to be "whiter than white", but to maintain a basic "white", that is, to comply with the minimum conduct requirement. As the Chief Executive, is he able to do that? If he is unable to comply with the minimum conduct requirement, we will have to ask him to resign from office.

President, we have to start from the minimum conduct requirement. The Secretary mentioned just now and we all know that it is written clearly in the Basic Law that the Chief Executive must be a person of integrity, and dedicated to his duties. And most important of all, the SAR Government shall be accountable to the Legislative Council. Therefore, as the person at the highest echelon of the government hierarchy, he shall be accountable to us.

President, what do we mean by integrity? Does it mean that I am a person of integrity when I do not accept bribes? Or does it mean that I am a person of integrity when I am not involved in conflict of interest? Or does it mean that I should not put myself in circumstances that give the impression or give rise to suspicion of any possibilities of conflict of interest? President, I think the latter prevails. Why? This is because section 3 of the Prevention of Bribery Ordinance (POBO) clearly stipulates that any public servant shall not solicit or accept any advantage. President, the provision of section 3 is very short, with only one sentence. There are no other adjectives or wordings that explain under what circumstances acceptance of advantages is allowed or under what circumstances acceptance of advantages is not allowed. Section 3 is very short, stipulating that a public servant is not allowed to accept any advantage without the permission of the Chief Executive.

President, what is the definition of advantage? We can see that according to the POBO, advantage includes favour; but does not include entertainment. President, many newspapers reported that Donald TSANG had accepted entertainment. This is the language used by the community. However, under the POBO, the meaning of entertainment is different. If we focus on the

definition as stipulated in the Ordinance, we will find that entertainment means the provision of food or drink for consumption on the occasion when it is provided. Thus, accepting the invitation of a friend to fly on a private jet is a favour, which belongs to the category of advantage; accepting the invitation of a friend to travel on a luxury yacht to spend his holiday in Macao is a favour as well as an advantage, but not entertainment. In other words, with the exception of the Chief Executive, any person in the entire SAR Government and the entire Civil Service, who accepts these favours, is guilty of an offence, with only the Chief Executive being the exception. President, is it true that we will "give officials full licence to commit arson while forbidding ordinary people even to light their lamps"? Little wonder that when I read today's newspaper I found anger expressed by all representatives of civil servants. I have no idea how many people will take to the streets this Saturday. Even though many Hong Kong people may not take to the streets, I believe they share the anger of the civil servants. This is because the POBO has not stipulated that the Chief Executive is subject to the regulation of section 3 of the Ordinance, so he is able to "commit arson" in various places.

President, back then, the Secretary was not the Secretary who was responsible for the constitutional affairs. I remember clearly that when the Ordinance was amended, the explanation given by the SAR Government was that the Chief Executive should not be bounded by this Ordinance because there were many circumstances under which the Chief Executive had to exchange gifts on his overseas official visits or when he received government officials from other countries. How could he make declarations during the exchange of gifts? President, the explanation sounded reasonable at that time. Of course, nobody has ever imagined that our Chief Executive would go after advantages to such an extent. Nobody has ever imagined that he would even vie with the elderly for a second-hand treadmill. President, we feel shameful even when we talk about it. Is there any member of the Hong Kong public who does not feel the shame? You should not take the treadmill even if it is presented to you as a gift. It can be given to the elderly people or other community groups. Why did he go after a treadmill worth only a few thousand dollars?

President, coming back to the POBO, at the time when the Government put forth this rationale and insisted not to include the Chief Executive in section 3,

the pro-establishment camp "helped the tyrant in his evildoing" and agreed to the view insisted by the SAR Government, which consequently led to the incident today. However, whether a clear provision has been stipulated in the Ordinance is one thing; at least the Chief Executive must not set a standard for his own conduct and an expectation of himself at such a low level. He must not say how high the public expectation of him is; instead, he must ask himself how low his expectation of himself is.

President, the story does not end here. There are other developments which are more astounding. President, in the written reply submitted by the Government yesterday, there are materials which indicated that in 2010, the Chief Executive had told this gentleman from Shenzhen, that is, the major shareholder of the Digital Broadcasting Corporation (DBC) that was in 2010, do Members remember when this company applied for a licence? President, it was April 2010. At the time when this company was applying for a licence, as the Chief Executive, he actually went to the shareholder of this company and told him he was interested in a unit of his property with a wish of renting the place. This is simply not right. Why hasn't ICAC conducted an investigation into this? It should certainly conduct an investigation into him.

President, it is even more outrageous that in the same reply, the Government said the Chief Executive signed an official tenancy agreement with this property owner in early 2012, that is, February 2012. President, it really baffles me. May I ask where on earth can there be property owners, not to mention in Hong Kong, prepared to spend \$3 million to renovate an apartment before the signing of a tenancy agreement so that a person who has not yet signed an agreement can move in? President, this is utterly inconceivable. Moreover, the Chief Executive has also admitted that his wife had gone to the site to inspect the renovation works at the end of 2011. At the same time, the Chief Executive had given approval for Dr Arthur LI to become the Chairman of the DBC. What a coincidence! Or was this agreement written only now so as to give an account of this to the public? As a matter of fact, had they come to a tacit understanding or arrived at a certain agreement long ago without writing down the details? Otherwise, I really cannot see why this property owner was willing to spend so much money on a tailor-made renovation for our Chief Executive when an agreement was not yet signed. The ICAC should conduct an investigation into

this. If an investigation is not conducted, even the signboard of the ICAC will be smashed by the public.

President, this incident is really infuriating because a person who claims to have worked in the Civil Service for more than 40 years — if my memory is correct, it should be 48 years — after the rule of civil servants in Hong Kong for so many years, the outcome of it is so pathetic. Having worked in the Civil Service for so many years, he does not even know the most fundamental principles. And he even has no shame in saying "It is you who wish that I can be whiter than white, it is you whose expectation of me is too high". He has simply refused to admit that he was wrong.

Therefore, President, I am not surprised at our colleagues proposing an impeachment. In fact, I also feel it in my heart that we should propose an impeachment. However, I have always reminded myself that my decisions should not be dictated by my emotions. President, we should also study what regulations were prescribed with regard to this mechanism under the Basic Law. President, under Article 73(9), if a motion initiated jointly by one-fourth of all the Members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may trigger the impeachment mechanism.

President, we have to think clearly about several points here. First, the "serious breach of law" mentioned in the Basic Law refers to a fact, not a "suspected breach of law" or a "possible breach of law". When a "serious breach of law" has taken place, how are we going to handle the case? It should undoubtedly be referred to the enforcement agency. If the Chief Executive has committed an offence in section 4 or section 5 of the POBO mentioned just now, he has definitely a serious breach of law. However, during the period of investigation, we cannot assume the Chief Executive has committed an offence because our legal system would rather show leniency than wrong the innocent. Any person should be presumed innocent before the law. I believe this should also apply to the Chief Executive. Thus, this ground for triggering the impeachment mechanism may not hold. Then the latter part of the provision mentions "dereliction of duty". President, what does it mean by "dereliction of duty"? Please note that the word "or" is used in the article. The word "or" indicates there is a difference between the two. If there is the possibility that the Chief Executive has breached the law, the latter criterion may not apply. What

does "dereliction of duty" mean to me? It means that his behaviour has brought the office of the Chief Executive into disrepute. And if this is the case, he should be impeached.

President, in my opinion, the present situation is already close to the above scenario. I think he has not only brought the office of the Chief Executive and the civil servants into disrepute, he has also brought disgrace to all people in Hong Kong. However, as at this moment, we have yet to receive from the Chief Executive a direct account for or explanation of the incident to the Legislative Council. He will have the opportunity to do so this afternoon. President, we have also written to you, requesting to extend the duration of the Session in which the Chief Executive will give us an account for this. At the moment, the Chief Executive has only agreed to give us one hour. I am certain some Members will resort to radical actions today. Mr Paul TSE has even said that he would not let the Chief Executive get away with it easily. I do not know if he will hurl eggs at him. As such behaviour is inconsistent with his usual style, I believe he will not do so. However, someone will certainly stage strong protests which may delay the whole session for 20 minutes or so, with only tens of minutes remaining. Each of the 60 Members wishes to ask him questions, but each Member is only allowed to ask one question and one follow-up question. President, it is really impossible. Thus, we wrote to you yesterday and asked for an opportunity for him to give a formal explanation. You may remember we had asked for two hours initially. So I hope there will be such an opportunity. Subsequent to this, if we find that he has indeed brought the office of the Chief Executive into disrepute, I believe we will absolutely (*The buzzer sounded*) not evade any motion of impeachment against him. We will absolutely support this motion by then.

Thank you, President.

MR CHEUNG KWOK-CHE (in Cantonese): President, in the face of the exposure of a series of incidents involving the Chief Executive travelling on tycoons' luxury yachts and private jets, and renting a luxury apartment at a low cost, in addition to the Chief Executive's handling of his defence in the manner of "squeezing toothpaste out of a tube", we can only sigh with regrets. Today, there are newspaper reports about him wasting \$6 million for the purpose of visiting his son in 2003. I had a dream the night before yesterday. In my

dream, I saw a big apple with a shiny skin. But under that skin, a big fat worm, exposing half of its body in a most nauseating manner, was nibbling at the apple. I am abhorred by this, and like many members of the public, my heart is heavy with sadness and sorrow — I feel sad that the Hong Kong Government has sunk to such a low level; I feel sad that after the reunification, instead of the realization of the pledge of a better tomorrow and people becoming masters of the own house, the people of Hong Kong have to pay the bill for collusion between business and the Government at the highest level. It transpires that the incident of LEUNG Chin-man is not the highest of all. It seems that the honest and incorruptible Hong Kong has been flushed down the drain in one go.

Democracy, freedom, the rule of law, and human rights are universal values. They are also the core values treasured and upheld with every effort by Hong Kong people. Nevertheless, to the general public, the most specific value that can be realized in their daily lives is certainly the integrity building in Hong Kong. "Oppose corruption and apprehend GODBER" is not only the collective memory of our generations of the "post-50s" and "post-60s". Since this is the most important achievement in Hong Kong, the new generation is also familiar with this movement. It can be said that the saying "香港好在有ICAC" (Hong Kong Our Advantage is ICAC) is well-known in the land of 9.6 million sq km of China. Both the people and officials in the Mainland often say that Hong Kong is the pearl of the country. They are referring to the economic achievement, urban construction, as well as the quality of people in Hong Kong. However, it all boils down to the foundation of the rule of law in Hong Kong, in which its quality of being clean is substantially realized.

If we compare the Chief Executive of Hong Kong returned by an undemocratic election with heads of states elected in other democratic countries, we are not only thinking too highly of ourselves, such comparison *per se* is neither fish nor fowl. I am also worried that citizens of these countries will hurl rotten tomatoes and rotten eggs at us, because such a comparison is an insult to their tradition of democracy. However, I think there is no harm in humbly borrowing the experiences of other people.

The latest example is the resignation of the German President Christian WULFF on 17 February. The incident was not very complicated. The German newspaper *Bild* first disclosed in mid-December last year that WULFF had received an amount of €500,000 low-interest private loan, which cause a

controversy to erupt. The situation was like the present predicament faced by the Chief Executive of Hong Kong. During the initial half month when the WULFF scandal was exposed, new information was exposed by the German media almost every day. This chief administrator of the highest level in Germany tried to justify himself with every possible excuse. Even though he had admitted of wrongdoing at a later stage, and even tender apologies, he still refused to resign. The people and the President kept on wrestling with each other during which WULFF had responded to criticisms and allegations. However, his dishonesty, the lack of transparency in his handling of the crisis, as well as the inconsistency in his words and actions had continuously attracted criticisms from the media and the public.

Why? It is because people have high expectations of their leaders. Political leaders are in control of the social instruments which directly affect various aspects of people's livelihood. It is justifiable that members of the public have high expectations of the integrity of their political leaders. Very often, political leaders are required to be whiter than white. The public considers the leaders who take advantage of their senior positions for their own personal gains contemptible. It hurts all the more deeply when the respectable position, authority, and honour of national leaders are tarnished. Thus, WULFF had to step down because of this.

President, recently people have expressed different views on the integrity of the two Chief Executive candidates on websites. In fact, not just different views have been expressed. It can be said that there are huge public outcries. There is a massive coverage of those so-called "ridicule" posters. The enormous number of these posters and the promptness in reproducing them are unprecedented. While this is an eye-opener, we can also see that the discontent of the public is rising continually. The incident that leads to queries about the integrity and conduct of the Chief Executive has added fuel to the flames. A poster entitled "Three brothers in the same boat of cheating" has been posted on websites. We may agree with the implication, but we are also deeply saddened by it.

During the procession organized by the Labour Party last Sunday, a civil servant who took part in the procession revealed to us he had never taken part in a procession before. Having worked in the Civil Service for several decades, he had all along believed he was a member of the quality civil service. Though he

might not have been proud of this, at least he felt good about it. He said that he was so angry at and depressed by what the "head" had done this time around that he could not help taking part in the procession. As a matter of fact, if we flip through reports of newspapers, we will find that many civil servants have expressed views on this. For instance, *Ming Pao Daily News* quoted the words of Mr NG, a retired civil servant, to this effect, "I am all the more saddened by this incident. A six-year-old knows one must be honest and clean. He, of all people, a person aged over 60, does not know. And he has advanced so much sophistry. Not only must he explain to the Legislative Council, he has to step down as soon as possible."

Over the past month, I have heard many members of the public once again make comparisons of Hong Kong before and after the reunification. It seems Prof Robert CHUNG of the University of Hong Kong might as well ask an additional question when he conducts his next ethnic identity poll of Hong Kong people, and that is, with what ethnic identity do Hong Kong people identify themselves before and after 1997. I believe the result of the poll will be meaningful. The Chinese side might level a stronger and stricter accusation that there is no end to eliminating the "colonial toxins" in Hong Kong people. Sometimes I think to myself, during Donald TSANG's 38 years with the Civil Service, 30 of them were served under the colonial government, and eight of them were served under the SAR Government. He has then served as the Chief Executive for seven years. His career with the Civil Service has spanned 45 years. But then why has he sunk to such a low level? The three "heads" of the SAR Government, that is, the "three brothers in the same boat of cheating", why have they "fallen from the horse" or almost "fallen from the horse" one after another? Has a curse been put on Hong Kong?

I have heard many members of the public say that public morality is not what it used to be in the old days, which reminds me of a story in ancient China. The story was recorded in *"Tales of Yanzi"*. During the Warring States period, Duke LING of Qi liked to see his imperial concubines dress in men's clothes. This became a trend, in which women wearing men's clothes became a fashion in society. Duke LING of Qi found it improper and ordered the act be forbidden. In order to penalize the women, he allowed his subordinates to tear their clothes into pieces when they saw women wear men's clothes on the streets. The order was strictly enforced. However, it still failed to forbid women to do so. Yanzi

said to Duke LING of Qi, "You allow your concubines to do so but forbid the people to act in the same manner. It is like 'crying up wine and selling vinegar'." So Duke LING of Qi ordered that his concubines be forbidden to wear men's clothes. This gradually changed the trend in society.

On the day of the procession, Mr WAN, a civil servant told newspapers that in the face of this incident of personal benefits, civil servants would become very prudent. He said that civil servants dared not have meals with people from private companies related to their work; and that they had to make declarations even if they had meals, with each meal not allowed to be over \$80. However, as the head of the civil servants, Donald TSANG had actually acted in this manner. He and his colleagues were very disappointed. As Donald TSANG used to say he acted in accordance with his conscience, Mr WAN queried where his conscience had gone. Mr WAN took his daughter along to the procession with a view to giving her a chance of learning how to differentiate between right and wrong. President, the bad example of leaders will surely be followed by their subordinates. The words of Mr WAN have echoed the words of Yanzi spoken 3 000 years ago. I do not have wild hopes about senior officials exercising self-discipline; but I believe in the institution.

Earlier, Henry TANG admitted there is an unauthorized underground structure in his residence. From the exposure of the incident, his various attempts to cover up, his reluctant admission under pressure, and his refusal to withdraw from the election, to the Chief Executive travelling on luxury yachts and private jets as well as renting a luxury flat in Shenzhen, these incidents have precisely manifested the injustice of the small-circle election of the Chief Executive. An unfair electoral system of the Chief Executive will lead to interest groups transferring benefits to one another; candidates not accountable to the general public; and interest groups evidently monopolizing the election process, while public opinion will not be able to monitor the whole procedure. As such is the case, we solemnly urge for the existing method of selecting the Chief Executive to be abolished and to be replaced by an election by universal suffrage on the basis of "one person, one vote", and the expedited implementation of returning all Legislative Council Members by universal suffrage, thereby subjecting the administration of the Government to monitoring and supervision by institutionalized public representation.

President, I so submit.

MR LEE WING-TAT (in Cantonese): President, after the recent exposure of incidents involving Chief Executive Donald TSANG, I bumped into some civil servants. A senior civil servant asked me this question: Could the world be more normal? I think he was right in putting it that way. His reference to normality was induced by the headlines of newspapers over the past three weeks which had been really not normal at all. He was referring to the fact that irrespective of the Chief Executive election or the conduct, comments and behaviour of the Chief Executive, the reports on these subjects made the headlines every day. But these headlines were neither reports on their policy platforms and political philosophy, nor the governance of the Chief Executive. The headlines of the day traced the developments of the attacks launched against each other in the form of scandals; or Chief Executive Donald TSANG travelling on a luxury yacht one day and a private jet on another, or more recently about his luxury residence. Today, there are reports about him joining a special tour to San Francisco in order to visit his son. I do not know whether there will be reports like these tomorrow or the day after tomorrow. When this senior civil servant had that conversation with me, I was deeply stirred, too.

We need to discuss a number of issues in society. However, President, sometimes I think it is beyond our control. Since this is a small-circle election, they try to uncover the "black materials" of the opponent. With regard to the incident involving the Chief Executive, having heard Chief Executive Donald TSANG's explanations in television and radio programmes, I felt very dissatisfied. What am I so dissatisfied about? First, as a matter of fact, he is not genuine in soul-searching. He said he had joined the Civil Service for over 40 years. He also claimed that he had been very careful, knowing he should not have any conduct that caused suspicion among the public that he or civil servants had been involved in some acts referred as accepting advantages. On another occasion, he said that in the capacity of a civil servant or the Chief Executive, a person should be "whiter than white". Let us look at these gauges. The first gauge is that senior civil servants should not engage in any conduct that causes suspicion of transfer of benefits or put themselves in a situation which will arouse such suspicion. The second gauge is "whiter than white". I do not know whether Chief Executive TSANG will ask members of the public to give him scores. If he asks the public to do so, I am sure his score is so low that he "fails". If only we use these two gauges to measure him, he will fail on both counts.

From a certain perspective, at present Chief Executive TSANG is really in deep water. He has joined the Civil Service for so many years. He has served as the Financial Secretary, the Chief Executive, and then the Chief Executive. He has served in senior positions for almost 10 years. It is only several months before his retirement when these incidents occurred. To the general public, these incidents may cancel out all the official positions he has held in his lifelong career as a public servant. The public may not remember anything other than how he has been criticized as a corrupt official or a person greedy for small advantages. Even the mildest criticism will target at his social life among tycoons, his inability to find it necessary to avoid suspicion, and failure to appreciate the great public expectations of him. President, the third criticism is already very rational. To put it frankly, he is criticized of being unable to avoid causing suspicion, unable to realize that he should not put himself in a situation which will arouse suspicion, and unable to handle the situation.

President, as the situation presently stands, I cannot see Chief Executive Donald TSANG has done any deep soul-searching. Why do I say that? First, he will attend the Question and Answer Session today, but he allows only one hour for the Legislative Council to field questions. Sometimes I have this feeling that while he holds the position of the Chief Executive, he actually has no idea that he is now being criticized and spurned by all members of the public. He is still feeling as if he were the emperor who had granted condescending mercy, showing due respect to the Legislative Council — you have invited me and so I come to spend one hour answering your questions. While he sticks to this diehard character, he is becoming more and more unworthy of any sympathy. I have known him for more than 20 years. I first came to know him in 1991 when he was a deputy director and I was a Member of the Legislative Council.

Sometimes I think it is no big deal at all. Coming to the Legislative Council to give an account for the matters being queried, and spending an hour in the Legislative Council's Question and Answer Session is no big deal. Since there are many Members of the pro-establishment camp in the Legislative Council, I believe he feels very secure that all those allegations targeting him will not be passed. Thus, he is fearless because he has something to fall back on. So he had not released information related to the matter as soon as possible; instead, bits and pieces of information were released in the manner of "squeezing toothpaste out of a tube". He had agreed to come here for an hour. It was

probably because our President had written to him or informed him that our colleagues wished he could spend more time in the Session, so he had granted condescending mercy and agreed to stay for 15 minutes more.

It is no big deal. Donald TSANG, do you not know that you are in deep water. You have actually refused to release information openly and honestly and listen humbly to the voices of the people. Do you know how many people are rebuking you, saying that you are a corrupt official, abusing power for your own gains, and involving in conflicts of interest? Donald TSANG, if you cannot change this mentality of being superior and high above the masses even when you are in the predicament of this incident, you are beyond redemption. In the face of this incident, you actually cannot act like those in the Cultural Revolution — I have forgotten whether the following remark was made by Chairman MAO: The revolution of a man is most complete when it takes place in the depth of his soul. If this incident cannot induce Donald TSANG to turn a new leaf and reform, and ponder on where his mistakes lie, I believe Donald TSANG is beyond redemption.

President, with respect to this subject, the Democratic Party will not demand that Donald TSANG resign immediately or propose impeachment at will. In reply to questions raised by reporters last Tuesday, I already said that we did not agree to triggering the impeachment mechanism at this stage. This is because every person who has been accused, irrespective of whether he has to appear in court or in the Legislative Council, he should go through a process in which he can provide information and defend himself. If we completely skip these procedures due to certain reasons, in future, when we find a man being accused in court because a photograph has shown him hurling stones at another person, will the Court consider that since he has hurled stones and caused serious injury to another person, he should be sentenced to imprisonment for 10 years without trial? Some colleagues in the Legislative Council — there are many such examples — have probably been alleged of questionable business or personal conduct. In the incident of the Guangzhou-Shenzhen-Hong Kong Express Rail Link, some colleagues were suspected of failing to make declarations, which might have been questionable. But can we use this gauge to waive the procedure of allowing them to provide information, go on trial and defend themselves? Can we just ask them to resign? Is this feasible? President, we cannot do that.

We hold that no matter what mistakes Donald TSANG has made or offence he has committed, we should act in accordance with the proper procedure. This is particularly so when the justice of such a procedure should stand the test of the angry roar from the public. I know that some members of the public are discontented with the Democratic Party because we do not support the proposal of a colleague to mobilize 15 votes to trigger impeachment against him. We will carefully explain our reasons. We will tell the public how we should handle incidents such as these. This does not apply to Donald TSANG only. In future, if the conduct of the three Secretaries, Directors of Bureaux, or Members of the Legislative Council appear to be wrong, and we trigger the motion of impeachment immediately without acting in accordance with procedural justice to give them an opportunity to provide information, attend hearings and explain; or if a colleague of the Legislative Council has been reported by the media for having done something, and we start the procedure to impeach this colleague before he has the chance to collect information and explain, is it appropriate? I certainly think both practices are inappropriate.

Thus, President, the Democratic Party insists that we should discuss the matter in the House Committee first. I will put forth a proposal on behalf of the Democratic Party tomorrow. According to our proposal, we will also invoke the Legislative Council (Powers and Privileges) Ordinance to confer the power on a certain panel, for instance, the Panel on Constitutional Affairs, in order that it shall have the power to require the Chief Executive to provide further information, files, related books and records, as well as to attend meetings for the purpose of answering questions. After these questions have been answered, if we have sufficient evidence to charge the Chief Executive with proven breach of law or serious dereliction of duty, we will have grounds for triggering the motion of impeachment.

President, finally I would like to point out that the existing system needs to be amended in terms of legislation and code of conduct. When this incident occurred, I cited an example to reporters. I said if property developers a Eva CHENG, Secretary for Transport and Housing, and Carrie LAM, Secretary for Development, a lift on their way back from Macao to Hong Kong, what impression would this give to the public? Even if Eva CHENG and Carrie LAM paid the full fare, would the public think that they were involved in collusion between business and the Government? Of course, these two ladies are very

clever, and they have high standard of conduct and morality. I believe both of them will not have the problem of putting themselves in circumstances that give rise to suspicions. Since the Secretaries are so clever, I do not understand why the Chief Executive could be so stupid that he committed mistakes relating to common sense known to everyone.

President, it is necessary for us to conduct an extensive consultation on the relevant legislation and code of conduct. I believe the Secretary for Constitutional and Mainland Affairs — he is present now — I hope that he will consider whether it is necessary to conduct a large-scale review on this aspect, that is, the code of conduct for the Chief Executive, the three Secretaries, Directors of Bureaux, and even the accountability team in terms of corruption prevention and avoiding suspicions, so that the SAR Government, from the Chief Executive, to the accountability team, and even the entire Civil Service, will learn from this incident and identify methods of improvement, with a view to rebuilding the honest and incorruptible image of the Government among members of the public. It is only through this that the Government will no longer be queried. Instead, it will be freed from the problems of accepting bribes and perverting the law, failing to avoid suspicions, and accepting advantages, thereby paving a smoother way of governance for the new Government in the future. Thank you, President.

MR CHIM PUI-CHUNG (in Cantonese): President, the problems that arose recently have become the talk of the town. I will try to analyse the rationale underlying this phenomenon from a judicial point of view where there are the prosecution and the defence. I hope the mass media and the public will not judge my comments through tinted glasses. Rather, views should be stated on basis of the principle of freedom of speech in the Legislative Council. This will also fully manifest freedom and democracy in Hong Kong and we should not blame these incidents on the system and then go on to criticize the electoral system. This also shows that I respect other people's opinions because, as I pointed out yesterday, the world and the Legislative Council in particular, is just like this, so why not seize the opportunity to put up a better appearance for ourselves?

First, I have to declare that recently, I and Mr Donald TSANG have not had any phone conversation or communication. I learnt from the press that he had

attended a gathering of the Li Ying Club in Macao and at that time, among those who went together with him were three friends of mine. One of them is surnamed LAU, the other HO and there was also one surnamed LEE judging from the silhouettes. This person surnamed LEE asked my friend surnamed HO to tell the Chief Executive that in the gathering of the Li Ying Club on that day, there would be a performance by singers and the two performers were the Taiwanese singer Mr FEI Yu-ching and Hong Kong pop singer Ms Elisa CHAN, so the Chief Executive could enjoy the performance and the meal at the same time.

President, I will explain what kind of organization the Li Ying Club as far as my intelligence and knowledge go. As we all know, all casinos in Macao are legal. There are three types of gambling venues under these casinos. Those that ordinary members of the public or gamblers can go in and gamble are called public galleries, just like the public stand of the Macau Racecourse. The casinos also have private clubs to provide convenience to gamblers who place high stakes. This is just like the VIP rooms of the Hong Kong Jockey Club (HKJC). The third type is private boxes which are contracted out to other participants as joint ventures. In fact, the Li Ying Club belongs to the category of VIP clubs and it is an organization under a casino and I am also a member of this Club.

At the indirect invitation of the person surnamed LEE, the Chief Executive attended the gathering that evening and watched the performance by the singers. This is just like having meals in the VIP rooms of the HKJC and watching horse races at the same time, which is legal. Of course, I trust the Chief Executive did not go into any casino to place bets on that day but even if he did, according to the laws of Macao, this is also legal, even though the policy of Macao stipulates that all civil servants are only formally permitted to go into casinos from the first day to the third day of the Chinese Lunar New Year, but not on other days.

Therefore, the general public must not think that this is a big deal when they hear that the Chief Executive attended a spring gathering in a casino VIP club. They must know that in the case of the HKJC, the general public cannot even join it before the opening of China, even though they regarded it as "Royal", and the people in some Islamic countries cannot take part in this kind of activities that are described as entertainment in Hong Kong. Therefore, it is not my intention to exculpate the Chief Executive, only that I wish to take this

opportunity to ask the public not to have any misunderstanding about this because after the mass media have reported on this, even some Legislative Council Members do not understand what this is all about. Even if we want to criticize or find fault with others, we still have to understand the particulars clearly and thoroughly and must not lightly believe the news reports in the press that are hearsay accounts of hearsay accounts.

I have no intention of criticizing my Honourable colleague, Mr Paul TSE, but I only think that as Members, we would have this kind of requirement. Therefore, firstly, it is true that we should have stricter requirements and hope that the Chief Executive would not be present on such occasions, but even if he was, so what? Did he breach any laws or regulations? On all matters, the most important thing is to use the law as the basis and we should not use morality as the basis from the very beginning. Of course, a second and even stricter requirement is to aspire to moral standards.

President, on the issue of taking rides on yachts, the most important question is whether or not the Chief Executive knows the owners of the yachts. If they know each other, they are friends. We have to know that many people in Hong Kong own yachts but I have to declare that I do not own any because I cannot get used to taking rides in them. In these circumstances, if the Chief Executive takes rides and stays overnight in yachts owned by other people, why do we have to be so amazed? So long as the owners of these yachts are his friends and his friends do not ask him to award him the so-called Grand Bauhinia Medal, Gold Bauhinia Star or Silver Bauhinia Star and the like, there is no problem. We have to know that some people consider the Bronze Bauhinia Star to be too low ranking and even if they are awarded it, they would not be very pleased because other people are awarded medals of a higher order but they are only awarded medals of a lower order, so they would feel quite jealous. As for me, I have nothing whatsoever. Therefore, the question lies in whether or not the other party has prescribed such a condition for the Chief Executive or if there is any tacit understanding between the two sides that by letting the Chief Executive take rides in a yacht for a week, the Government would award the owner a Grand Bauhinia Medal, or a Gold Bauhinia Star if the Chief Executive is allowed to do so for three days. Therefore, the Chief Executive has the responsibility and duty to give an account of the background of these several friends of his and this will also make his friends feel better as they do not have to suffer any wrongful accusation. They treated the Chief Executive as a friend but

were criticized like this. In this world, it is not necessarily wrong to have money. They have worked hard to make it, so long as everything is legal, there is no problem.

President, the same applies to the third point, which is about taking rides in airplanes. The Chief Executive hastily explained that he would pay hundreds of thousands of dollars each time, but the thinking of ordinary people is that the Chief Executive has all along projected an image of being frugal, so how would he be willing to pay hundreds of thousands of dollars for a flight? The Chief Executive must give an explanation on this to convince the public. However, in the same vein, did the people taking a plane together with the Chief Executive ask him to award them medals, or even agree on the transfer of benefits or attempt to make a transfer of benefits? If such instances have occurred, the Chief Executive has surely breached the laws of Hong Kong and this is undeniable. As members of the public, we certainly expect the Chief Executive to abide by all laws and observe higher moral standards. Now, all people are condemning him of a lack of moral, but this has to be proven by history.

We must understand that each time the presidents or leaders of overseas countries make overseas visits, apart from their own delegations, a group of business people would also join them, thus forming an economic and trade delegation of hundreds of people or even more. The aim of doing so is none other than to do business. Of course, this can be described as collusion between the Government and business, but I think one cannot put it that way. It can be said that such economic and trade delegations accompanying national leaders on overseas visits is an arrangement that is made each time the Chinese Premier, Mr WEN Jia-bao, visits various European countries. Some Honourable colleagues would think that this is a different matter although in fact, this is not so. If leaders lead economic and trade delegations in making overseas visits, this will be conducive to the commercial development of a region or country, so there are certain economic benefits.

Can we consider this to be collusion between the Government and business, as some Legislative Council Members allege? I think we cannot. This should be considered co-operation between the Government and business, so what is wrong with it? Both sides try to secure economic benefits for a region or country through normal communication on the basis of mutual trust, so what is wrong with this and what is so secretive about this? Therefore, on the issue of

the Chief Executive taking flights on private jets, the most important question is whether or not the other party is his friend and whether or not the Chief Executive agreed to award more medals to the other party on account of this. Personally, I think that the so-called the transfer of benefits cannot be dismissed so lightly.

As regards the issue of renting a flat in Shenzhen, the Chief Executive has already given an explanation, but whether or not Members accept it is another matter. If he can give up more, the most desirable thing to do is to terminate the tenancy agreement, as some members of the mass media suggested. Although the Chief Executive can only receive \$80,000 monthly in pension after retirement, I believe that no matter how, with this sum of pension and his past savings, he should be able to afford his living expenses for three years comfortably because he has all along led a frugal life.

Concerning the explanations on this issue given by him, since I have not asked too many questions in the past, it is very likely I will have many opportunities to ask questions on that occasion. However, I hope some newspapers would not seize the opportunity to launch attacks, saying that in taking the lead to ask questions, my intention is to protect the Chief Executive. I have no such intention whatsoever. President, as we all know, the Chief Executive made comments about affinity differentiation and this is an attitude that can be applied to everywhere in the world. However, he can do so but it is not preferable for him to say this explicitly. In the same vein, I sat next to Mr CHEUNG Man-kwong 21 years ago, but now, of course, he would reserve them all if he has any goodies for the Democratic Party and would not notify me immediately. This is an absolutely normal attitude of affinity differentiation. If anyone wants to deny this, he is only deceiving himself and others.

President, on the issue of giving him wine as gifts, the press alleged that I once gave the Chief Executive a crate of wine as a gift. The fact is that I was once a guest of the Chief Executive and at that time, he treated me to a bottle of fine wine that he had kept preciously for many years. Subsequently, I gave him a crate of wine as a gift but the Chief Executive explained that he could only accept one bottle and the others had to be shared with other people, so I also accepted his suggestion. President, I wish to take this opportunity to clarify that more than a decade ago, Mr MA Ching-kwan of the *Oriental Daily News* would send me one or two bottles of wine each year as a gift. It was in recent years,

when our relationship having turned not so close as before, that he no longer gave me any wine as a gift.

What I wish to point out is that giving wine as a gift is a matter of courtesy, so what is all the fuss about? So long as we do not ask the recipient to do something for us, in particular, political assistance on account of this, that would not be a problem. Therefore, when positioning ourselves and getting along with other people in the world, we must not be forgiving to oneself but strict to others. As the saying goes, "Hate begets hate", so if we can take things more lightly, life will be easier for us all. President, I am not encouraging Members to let anyone off but from this incident, I only hope to encourage the Hong Kong public to look bravely ahead. No matter what the matter is, we have to rely on social unity and exposing each other's faults will be absolutely unfavourable to Hong Kong.

MR ANDREW CHENG (in Cantonese): President, it is always very nice to listen to Mr CHIM Pui-chung's speeches, including the contents, his unique views and even the insider information. Just now, of course the insider information that struck me in particular is affinity differentiation between the Democratic Party and Donald TSANG, that is, the Democratic Party is on better terms with Donald TSANG than he is. Of course, I believe that on the past issues relating to constitutional reform, Donald TSANG has indeed broken loose of the destiny of the past.

President, recently, an Indian film is really great and some Honourable colleagues also talked about it just now. It is called "3 Idiots". Many people have compared these three buddies with Donald TSANG, Henry TANG and LEUNG Chun-ying. Frankly speaking, at present, one of these three buddies is the Chief Executive, whereas the other two are vying to be the next Chief Executive. I will try to use the next 10-odd minutes to comment on these three people as my views on this motion.

Of course, the first one is our Chief Executive, Donald TSANG. President, I believe that in coping with today, as the Chief Executive himself said, it had never occurred to him, even in his dreams, that he would be taken down his pedestal like this and described as a very corrupt official, since he always says he has high requirements on his own integrity. I have known Donald TSANG for quite a long time and I believe that, like other Honourable colleagues, I have

some understanding of his growth and change in politics and in officialdom. I believe his claim of having high requirements on his own integrity all along is a relative change. What I mean is: With whom is he comparing when he talked about his requirements on his own integrity?

I believe we can all see the elation and excitement of Donald TSANG when he became the Chief Executive, so excited that it looked as though he had to return to his hometown in glory and to go back to his hometown to pay respect to his ancestors, because I believe that in the era of Mr TUNG, it must have never occurred to him, even in his dreams, that he could become the Chief Executive. After becoming the Chief Executive, a small-circle election dominated by big consortia created a small official called Donald TSANG, who became the ruler of the kingdom of the Chief Executive. Obviously, with the flattery, sycophancy and VIP treatment of various consortia, his feelings gradually changed from excitement to intoxication, giving rise to an attitude of overweening arrogance in the kingdom of the Chief Executive. In recent years, this impression given by him was very strong, so this is what it means by power corrupts. Power corrupts, so if we do not resolve this at an early date, absolutely power will corrupt absolutely. Luckily, there is still the freedom of speech and freedom of the press in Hong Kong, so on the so-called smearing, my views are different from that of other Honourable colleagues. In sum, if something is a fact, we cannot smear it, but because those are shady deals, so they have to be exposed and this is not smearing.

I think that even now, Donald TSANG still does not think that he has done anything wrong. He stressed repeatedly that even the requirements in the British-Hong Kong era were not as stringent as those nowadays and that he has already been much more stringent, yet we still think that this is not enough. Since there is still a gap between him and us, fine, he will just establish an independent commission. Does he think that he has done anything wrong? I believe at the bottom of his heart, he does not think he has done anything "wrong". He only thinks that we have misunderstood him, wondering in misery why we do not show some understanding despite all his toil.

Precisely on account of this, yesterday, I also said to the Chief Secretary for Administration that section 3 of the Prevention of Bribery Ordinance (POBO) was very important. Just now, Mr CHIM Pui-chung asked what the big deal with those gifts was. What is the big deal with a bottle of red wine? Yes, there

is actually no big deal with a bottle of wine but, Mr CHIM Pui-chung, if you receive some red wine from other people, or of course, it is because you are on friendly terms with someone that you would give something to him but if you are on friendly terms with him and one party is an official and the other party is a businessman, the situation would be very clear.

Why is section 3 of the POBO so strict on ordinary civil servants, stipulating that they must not accept advantages? Why is the Chief Executive not covered by this provision? Why is it so strict on civil servants? This is because civil servants have power. If a civil servant receives a crate of red wine today, of course, he would not agree to doing something for the party giving the wine to him immediately. Of course, it would not be like this because the victims of corruption are a large group of silent people, since those giving and those on the take are both happy. Unlike ordinary crimes where there are surely victims in general offences and the victims would come forward to tell, the victims of corruption are the general public and they may not be aware of it. For this reason, we have to be stringent on people with power. If section 3 of the POBO is not amended, our future Chief Executives may continue to take rides on private jets and luxury yachts and rent luxury property cheaply.

On Henry TANG, President, this morning, Henry TANG was interviewed on the radio. The programme host asked him whether or not he had considered the prospect of an abortive election? Henry TANG used his customary rather low speed of speech to mutter that if he stood in an election, he would surely win. However, when the host asked him further what if the election was really abortive, he replied that he had not thought about this because if he stood in an election, he would surely win. Judging from those responses from him, President, I have the impression that recently, he had spent a lot of time writing blogs and had not spoken in public for a long time, or maybe he does not have the rhetorical skills in public speaking. First, I stress that eloquence does not necessarily mean ability and this I understand. However, if the future Chief Executive only hopes to boost public sentiment and support by writing blogs, does that mean the future Chief Executive will have discussions with Legislative Council Members through blogs and will not come to the Question and Answer Sessions of the Legislative Council?

An abortive election is a possibility. Sometimes, even the meetings here may be adjourned for lack of quorum. However, if there is a high probability of an abortive election, as a candidate, he must be prepared for it. Given that in the past few months, the character, ability and credibility of Henry TANG have been called into serious doubts, yesterday, over a dozen members of the Election Committee still gave him their nomination, so do Members not think that this is the pathetic thing about small-circle elections? He said he had only dug a small hole to store various items but several days later, this small hole became an unauthorized structure with an area of 2 000 sq ft. I believe in the eyes of Hong Kong people, if Henry TANG becomes the Chief Executive, I am very worried that not only would hundreds of thousands of people take to the streets on 1 July, on the Sunday after 25 March, that is, 1 April, a lot of people would also take to the streets. After 1 April and 1 July, if the Chief Executive is still Henry TANG, people may also take to the streets on 1 October. May I ask the leaders in Beijing why it would allow someone with problems of ethics, ability and integrity to secure the largest number of nominations in the election? This is the pathetic thing about Hong Kong people.

We talked a lot about the "West Kowloon Gate" incident involving Mr LEUNG Chun-ying. We discussed a lot about it yesterday. Just now, I read a piece of news related to you, President, and I also mentioned it yesterday. It has to do with making phone calls to you. I read the news and found that at one point, Mr LEUNG Chun-ying denied calling you. Subsequently, you said that was not true, President, and that Mr LEUNG had called you twice, saying that he would not use smearing tactics on you. Subsequently, reporters asked LEUNG Chun-ying again. He said it was only a matter of pause. What he meant was not he "did not call Jasper TSANG" but that he "did not call to tell him not to stand in the election". He did not do that, rather than he did not call Jasper TSANG.

President, no matter how Mr LEUNG Chun-ying will cope with our Legislative Council (Powers and Privileges) Ordinance in the future, I believe Mr LEUNG has given us the strong impression that despite his great abilities, Hong Kong people are worried about whether his integrity or abilities have deviated towards certain areas, so this is also a problem. On his declaration of interest in the WKCD incident, I have already stressed that I trust the Government has learnt something from this incident. That was only an ordinary declaration of interests form and just signing it like this may not have any legal effect because the

documents were not signed under oath, so if it is proven in the future that he lied, they may not have any legal effect for the pursuit of responsibility, so this is actually just useless paper work.

A government with truly high transparency should practise a sunshine policy. I agree that if all officials, Secretaries of Departments, Directors of Bureaux, Members of the Executive Council and Members of the Legislative Council have to make declarations of interests on a certain matter, such declarations must be absolutely legally binding. Otherwise, no matter what one puts in a form, in the future, even if we wish to pursue responsibility, but as opportunity only knocks once, how can we do so after missing the boat? The Government must consider this kind of declarations of interests and by reflecting on this experience, so that when there are issues similar to the WKCD incident, the Government will not have to provide information only after a lapse of 10 years, giving the public the impression that the Government is being partial and that there may be some underlying political beliefs or political suppression.

President, I stress once again that such terms as "small-circle election" and "collusion between the Government and business" have kept appearing after the reunification. I understand that for businessmen, the more amicable the relationship with officialdom is, the better. This is definite, but the system must impose checks and balances on this line, so that the relationship between officials and businessmen cannot be excessive, so much so that people query that you stand to gain benefits or enjoy too much convenience. The Government often takes people on visits relating to the development of Northwestern China, going there together with many businessmen and that is not a problem. However, the problem is: If the Chief Executive flies on private jets on pleasure trips or visits relatives by travelling in luxury yachts, this kind of relationships are excessive.

President, I so submit.

MR CHEUNG MAN-KWONG (in Cantonese): President, the Basic Law requires the Chief Executive to be a person of integrity. Although there are only four words, they have profound meaning. They embody the great expectations of our country and Hong Kong people for the Chief Executive, requiring that the moral and ethics of the Chief Executive must definitely be higher than that of accountability officials and civil servants and that he must be "whiter than white",

rather than a case of the more one explains, the worse it becomes, offering fresh disclosure every day. Otherwise, if he cannot set a good example himself, how can he induce correct behaviour in others? How can he uphold his personal prestige and the prestige of the Government? How can he uphold Hong Kong's core value of probity?

The Code for Officials under the Political Appointment System provides that a politically appointed official shall not accept entertainment from any person if the entertainment is likely by reason of its excessive nature, to lead to embarrassment of the politically appointed official in the discharge of his functions or to bring the politically appointed official or the public service into disrepute. However, how should the Chief Executive be dealt with?

The Civil Service Code also provides that civil servants must have honesty and integrity and shall ensure that no actual, perceived or potential conflict of interest shall arise between their official duties and private interests. They shall not use their official position to further personal interests or the private interests of others. However, can the Chief Executive meet this requirement?

The scandals relating to Donald TSANG that have been exposed include coveting minor advantages and he even would not let go of a treadmill. He travelled together with tycoons, stayed and travelled from and to Hong Kong in yachts, took private jets but paid the fares of a flight in a civil plane. He rented a luxury flat and the cost of the splendid decoration was even more expensive than the rent, and even a koi fish pond was conceived for him. All these small advantages, when taken altogether, would amount to a lot and showed his personal character and style. Among them, the most eye-catching one is to rent a luxury property owned by Mr WONG Cho-bau after retirement, but no declaration of interests has been made, so obviously, a conflict of interest has arisen. He is now being investigated by the Independent Commission Against Corruption (ICAC) and he is likely to fall foul of the law at any time, thus becoming the first Chief Executive to breach the law and sully the corruption-free politics in Hong Kong. He should feel ashamed before the Civil Service and accountability officials and has brought disgrace on Hong Kong people for the sake of these small advantages. They have become the greatest blemishes in his term of office, so great that even a jump into the Victoria Harbour could hardly wash it off.

If Donald TSANG were an accountability official, he would have already violated the Code for Officials under the Political Appointment System and would have to receive the penalties from a Chief Executive. If he were a civil servant, he would have violated the Prevention of Bribery Ordinance and been arrested by the ICAC. His conduct is not just an embarrassment to the Government. This is practically being stringent to other people but lax on oneself, abusing powers for personal gains, applying double standards, being accustomed to such acts, enjoying them and never feeling tired of them. This is like staying in a fish market and getting used to the stink as a long exposure to a bad environment will make one accustomed to evil ways.

However, the scandals surrounding Donald TSANG is not just an isolated incident. In recent days, in the campaigns of the Chief Executive Election, due to the power struggle within the pro-establishment camp, disputes over the distribution of illicit benefits and mutual smearing, a series of scandals were exposed. For example, Henry TANG built a cellar and in order to exonerate himself, he told a heap of lies, thus taking his integrity to the brink of collapse. Take the false declaration by LEUNG Chun-ying relating to the West Kowloon Cultural District Project as another example, a conflict of roles occurred, but he resorted to sophistry every day without blushing or palpitating. This all shows that the ruling class nurtured by the small-circle elections in the past 15 years in the SAR has encouraged the senior level of the governing team to manipulate the situation single-handedly, giving no regard to law and order, thus becoming degenerated in morals due to the lack of checks and balances on power for extended periods of time and also because of the mutual protection given to the culture of corruption and decadence in the small circle. It has never occurred to Hong Kong people that 15 years after the reunification, the trend of corruption in society has begun from the upper level, with the three major senior officials, namely, Chief Executive Donald TSANG, the former Chief Secretary for Administration, Henry TANG and the former Convener of the Executive Council all being involved. None of this trio of senior officials could escape unaffected and the Hong Kong core value of integrity established by Hong Kong people with great efforts from one generation after another has been destroyed. This is really heart-breaking.

What integrity demands is self-caution when being alone. Since probity is a check and balance on the system, it also has to originate from the heart. To political figures, no matter if they are left-wing, middle-of-the-road or right-wing,

integrity and probity are the most important ethics. This is not a sudden elevation of standards by Hong Kong people, nor is this the gap between the expectation of the Chief Executive and that of Hong Kong people, but the basic political ethics that political figures must possess and also the law and regulation that all the Chief Executives thus far must comply with. Now, it transpires that Donald TSANG, being in such a respectable status as the Chief Executive, has committed such a rookie mistake for public officers, so this is infuriating and puzzling. This is a Chief Executive who has come from the grassroots and "drinks the water in Hong Kong and has the blood of Hong Kong flowing in his veins". He has striven hard for 40 years from a elementary rank in the Civil Service and risen to the Financial Secretary, Chief Secretary for Administration and Chief Executive. This can be considered unprecedented in Hong Kong. However, it turned out that in the end, he is ruining his integrity in his twilight years, how can one not shake the head in lament? Some people say that power corrupts and the power of the "small-circle" election, which is unique to Hong Kong, is not subject to the faintest trace of check and balance, so is this not the root of corruption? Should Hong Kong think long and hard in view of the recent incidents?

However, the incidents have happened and they must be dealt with strictly and seriously. This is to sound the warning bell to remind people in the future. Today, Donald TSANG will come to the Legislative Council to take questions from us and he also may have to face the prospect of being summoned under the Legislative Council (Powers and Privileges) Ordinance. No matter what, he must face his own mistakes sincerely and find ways to plug the loophole of corruption and decadence, apologize publicly to the Hong Kong public and seek the pardon of the general public, establish a more strict and impartial monitoring system for the Chief Executive, accountability officials and Members of the Executive Council. Moreover, he must make it applicable to himself first.

As we all know, the ICAC has opened a file for the purpose of investigating this matter, so everything must be dealt with according to the law and this is also Hong Kong's core value. A Chief Executive who has broken the law should be punished just like an ordinary person. However, just before the commencement of the investigation into the Chief Executive, it was disclosed that the Commissioner for the Independent Commission Against Corruption, Timothy TONG, and tycoon WONG Cho-bau, who is under investigation, are "golf buddies", thereby casting a shadow on the investigation before it has even started. How would ordinary members of the public feel about this? Would this

aggravate their concern about the rotten nature of senior officials and make them doubt if officials are cozying up to tycoons by playing golf together? These cases of "inextricable collusion between business and the Government disclosing more and more scandals" are cropping up one after another and there is always something new every day. This is really dazzling. They also exposed the government and business network in the small circle with their intricate interests. The internecine struggle also exposed its ugliness. The most crucial political moral appeal of the ruling class has been shattered. Have they ever thought about what ordinary members of the public would think in the face of the tidal flood of scandals?

However, there may be a silver lining to this rotten state of affairs. "A rotten tree breeds worms". The fortress of the small-circle has imploded, so Hong Kong people can see more clearly from the series of scandals surrounding the Chief Executive Election and the insane power struggle in the pro-establishment camp, thus learning the significance of such small signs and understanding that corruption and decadence is prevalent in the small circle and the people in the upper echelon of power are ogling with one another, so how much indestructible benefit is there in the traditional hegemony? How many cases of transfer of benefits are hidden between consortia and the Government? Hong Kong people can also see clearly the significance of campaigning for democracy and universal suffrage. Even though the pro-democracy camp is a minority, it also has the political value of counterbalancing the privileges of the small circle and acting as a clean force in politics to defend the core value of integrity and probity, doing its best to monitor and counterbalance the corruption and decadence network and the possible transfer of benefits that are taking shape. Today, in the 15th year after the reunification, let us use the exposure of how rotten the corruption of the small circle is as a starting point and campaign for the establishment of a political system founded on universal suffrage, so that Hong Kong people can really use their votes to punish a corrupt and decadent regime, rather than like the small-circle election nowadays, in which one can choose either the pig or the wolf. On the front stage, it is an all-out warfare between the pig and the wolf but at the backstage, it is preordination by the Central Authorities. There is nothing that is the ugliest but uglier. If the Chief Executive covets small benefits, he will condone consortia in major acts of corruption.

Thank you, President.

MR LEE CHEUK-YAN (in Cantonese): President, I have recently received an email decrypted by "WidiLeaks". It is a letter written by "Donkey TSANG" to the people of Hong Kong, only that he never sends it out. Now, let me read out this Letter to Hong Kong written by "Donkey TSANG":

"Dear people of Hong Kong,

"When I was wearing my bow tie this morning, I looked into the mirror and could not help thinking about the series of incidents relating to my outbound trips and my plan to rent a large apartment for retirement. It was then that I suddenly realized I was no longer the person I used to be. I found myself changed a lot. I should confess to the public.

"To begin with, I have to withdraw the remarks I made several days ago. I said there was a certain gap between the rules which I have been holding fast to and the expectations of the public, and thus letting the people down. I must admit that there is no gap between the rules and the public expectations and the public have not raised their expectations, the crux is that I have unmindfully degenerated. I have said that it is not enough for public officers to be white, they should be 'whiter than white'. However, in reality, 'there is no such thing as the darkest one, for there is always an even darker one'. As for my part, I have turned 'darker than dark'. I hereby beg the public to forgive me.

"Looking back on my past 45 years in the public service, I have always taken pride in my official capacity and served the public earnestly. When did I start to change, then? Upon deep reflection, I realize that it started when I fell into the trap of coterie election.

"In 2003, the authorities suggested enacting legislation on Article 23 of the Basic Law, causing more than 500 000 people to take to the streets in protest. I realized immediately that the time had finally come for me to move further upwards. I am sure I have more solid governing experience than anyone else in Hong Kong, why should I sit under Mr TUNG? Whenever I saw the 'good old man', Mr TUNG, who was in fact the 'good old fool', I just could not help feeling indignant, thinking about when I could finally take his place. I could hear a voice inside me saying: "the seat of the Chief Executive should be mine".

"Hence, I started to take actions and grasp every opportunity to get in touch with LIAO Hui and befriend him. I knew for sure that I needed to fawn on the

Central Government. Yet at the same time, I knew I also needed to fawn on the most important element of the coterie election in Hong Kong — the Election Committee (EC), comprising mainly the four major families, the business sector, as well as the EC members who were also Hong Kong members of the Chinese People's Political Consultative Conference. In my capacity as the Chief Secretary for Administration, it was certainly very easy for me to make friends with the tycoons. They could also see my ambition and thus started to fawn on me, praising me for my unparalleled calibre. My dear people of Hong Kong, I have to admit that I really got carried away.

"During the general gatherings with my wealthy friends, I saw them showing off their extravagant way of life. I asked myself: 'I am much more capable than these people, why are they the ones leading such an extravagant life? I have been working so diligently to serve Hong Kong for almost 40 years, it should be time for me to really enjoy some pampering.' With such thoughts in mind, I began to degenerate.

"In 2005, I finally took office as the Chief Executive. As I can recall, after moving into Government House, I could hardly hide my feeling of excitement whenever I was alone. My heart was yelling: 'Mom, I finally made it!' In retrospect, I believe that day was the time when my personal feeling first started overpowering my earnestness to serve the public.

"With the support of the EC members of the coterie election, I became the Chief Executive. Naturally, my ties with them were getting closer and closer. I started to attend more social functions and made more fair-weather friends. I began to slacken, thinking that it was no big deal for me in my capacity as the Chief Executive to pamper myself with the hospitality offered by some tycoons. It was indeed so reasonable, after all, I had been working so hard for so many years. I deserved it! Besides, I believed I would not engage in any transfer of benefits in discharging my duties. In reality, however, when the business of my friends was discussed in the Executive Council, I considered it not necessary for me to make any declaration or make known my ties with them. Naturally, other public officers were also 'very understanding' and did not require me to take any actions.

"It was until lately when the media exposed my acceptance of hospitality that I shockingly realized the changes in me. It was the fault of the coterie election! The EC members of the coterie election placed me in the seat of the Chief Executive, it was just natural for me to be true to them officially and in

private. Hence, I got increasingly and deeply trapped in the coterie logic and links of interests, so much so that I became doomed eternally and found myself ending up in today's 'collusion between TSANG and business'.

"Today, I sincerely tender to the people of Hong Kong my apologies and resign from office to shown my remorse. What is more, I will also take part in the 'Do away with this awful mess and get back our real election by universal suffrage' procession to be mobilized by the Civil Human Rights Front at 3 pm on the third of the month. I have personally got locked in the alluring trap of coterie election and experienced the corruption at work. This is not my own problem, but the problem with the existing system. So long as there is coterie election, there is bound to be collusion between public officers and business. Only the Chief Executive returned by 'one person, one vote' will be serving Hong Kong faithfully and subject to real monitoring by the public.

Yours sincerely, 'Donkey TSANG'."

President, as things have developed to this present stage, I really feel very pathetic sometimes, so pathetic that I have to tell such a bad joke in my speech. What I said just now was but a bad joke, part of some very imaginative fiction. It is very obvious that our Chief Executive has shown no remorse.

I feel so sorry for Hong Kong, seeing that we have to "fight against corruption" these days. One of the core values that Hong Kong has been upholding is integrity. We do not have democracy in Hong Kong, and we are now losing our integrity. All along in the past, the people of Hong Kong have been taking pride in our corruption-free society and our clean government. We all consider that the civil servants in Hong Kong are much better than their corrupted counterparts on the Mainland, at least we do not have any corrupted public officers in Hong Kong. Even though we do not have democracy, we at least have a clean government.

But then, scandals have been brought to light one after another, starting with Henry TANG's problems, then the suspected failure to declare interests on the part of LEUNG Chun-ying, and followed by Donald TSANG's chain of incidents. The media first found out that Donald TSANG had travelled on a tycoon's private yacht to Macao. Subsequently, it was further revealed that TSANG had even travelled twice on a tycoon's private jet. After that, his "TSANG Mansion" incident was exposed. Further still, it was also found out

that he had sold the bottles of wine given to him and claimed tax deduction after donating the proceeds from the wine sale, thereby reducing his tax payable.

Later on, the "treadmill incident" also surfaced. Even though we may find the "treadmill incident" rather trivial, he still chose to handle the matter in an ambiguous manner, refusing to disclose clearly whether the treadmill was lent to him or given to him. It has also been revealed that when he was the Chief Secretary for Administration, he has abused his power to alter the itinerary of his business trip to San Francisco, so as to facilitate his visit to his son. We are really dazzled by the many incidents exposed one after another.

We people of Hong Kong really cannot keep our heads up now, for we feel very much shamed. Here, I have to tell Donald TSANG, "You have really hurt the people of Hong Kong so much. But the worst thing is that in addition to hurting the people of Hong Kong, you are also hurling an insult at their wisdom."

Donald TSANG claims that there has been no conflict of interests He did not put it this way. He acted as if he was holding fast to his principle, and told us that according to his principle, he would consider accepting hospitality offers only if there was not any conflict of interests. What kind of logic is this? If he is ready to accept hospitality if no conflict of interests is involved, has he ever thought about the issue of laying himself open to suspicion?

The crux of the matter is not just whether or not he is open to suspicion, the most important point is that he should avoid arousing suspicion. Seeing that he has accepted hospitality offered by tycoons, how can the public know if he will not give these tycoons convenience in discharging his duties? I am afraid nobody can tell. He has totally neglected the requirement of making declarations. According to his own principle, no declaration is required whatsoever, so long as he personally considers there is no conflict of interests.

What then is the meaning of making declarations? By his logic, it is not necessary for Members of the Executive and Legislative Councils to make any declarations. They can do whatever their hearts desire if they personally consider there is no conflict of interests. This is in fact what he is saying between the lines. Has he really pitched his standard at such a low level? My conclusion is that Donald TSANG has been assimilated by officials in Beijing. In the eyes of the Mainland people, what have been revealed are just trivial

matters. They may query why we are making such a fuss, bearing in mind that things like that take place on the Mainland every day.

If he were on the Mainland, Donald TSANG's case was indeed a very trivial matter, which would "pale into insignificance by comparison". However, should we say "that is all right" or "forget it" just because he is much better than the public officers on the Mainland? Should we people of Hong Kong lower our moral standard to suit him?

As I have said, Hong Kong does not have many things to take pride in. All along, we all believe that with the establishment of the Independent Commission Against Corruption (ICAC), we will have a corruption-free society, and the civil servants will serve the public with great caution. What is the situation now? I believe members of the public in Hong Kong alike are feeling distressed, and more so for the civil servants who can very easily be subject to investigation and disciplinary actions. If any person should offer them any hospitality of an "unclear" nature, they could not but cautiously refuse the offer. But then, Donald TSANG is now acting in the opposite direction. I believe what he has done will certainly impact gravely on the morale of civil servants.

It is very dangerous to act in line with his logic of "everything is acceptable so long as no conflict of interests is involved". How can we be so sure that conflict of interests will never be involved?

Moreover, he also said that he had acted in compliance with some internal rules, and described himself as a "good guy" who paid his travel expenses. Should travelling on a private jet be considered a mode of transportation or an offer of hospitality? Is travelling on a private jet as simple as riding a taxi, which requires no more than payment of the taxi fare? According to his logic, it is all right to make a taxi trip for the cost of just the bus fare.

Sometimes we need to make some declarations, and I have done so as well. Even if some taxi drivers should offer to give me a free ride, I would politely decline the offer. I consider it not appropriate to not pay for the taxi trip I have taken. Taxi drivers have to work very hard to earn a living, they should not be paid nothing. According to Donald TSANG's logic, if in future any taxi driver should offer us a free ride, we can say "Thank you" and pay the taxi driver a sum of \$9.3, which is equivalent to the relevant bus fare. What kind of logic is this? Yet he even bragged that he had acted in accordance with his own rules, but other

people would not have any rules like his. I can only say I am really made speechless.

President, even though the Labour Party is deeply distressed by the recent developments in Hong Kong, we still believe that the people of Hong Kong should not give up. On the contrary, we should work together to forge an ideal social environment in Hong Kong, namely, a clean and democratic society. On one hand, the Labour Party appeals here to the public to join the 'Do away with this awful mess and get back our real election by universal suffrage' procession to be held by the Civil Human Rights Front on 3rd March. But then, we believe a more important point is that in addition to joining the procession to voice our anger, we should deflate the recognition level of the coterie election by not taking the opinion surveys

Currently, we have noticed a phenomenon in which the popularity rating as revealed in some opinion surveys is being taken as the public mandate. Regardless of which Chief Executive Election candidate, The Liberal Party have indicated that they would reconsider giving their support to Henry TANG if his popularity could rise back to 50%. Buddy, are they making popularity rating their only benchmark? This is indeed a very dangerous approach, as the people do not have any right to vote in this election. I urge them not to try fooling themselves or others.

To call a spade a spade, does it make any difference if members of the public give their support to any of the persons running or intending to run in the Chief Executive Election? They just do not have any right to vote in this election. It should be better for the Liberal Party to say that they do not support any of the persons running or intending to run in the Chief Executive Election, thereby causing the recognition of the coterie election to the lowest level. It is only when the Chief Executives returned by any coterie elections lack recognition and enjoy a very low popularity rating that we can have more capital and chips to bargain with the Chief Executive so returned, thereby fighting for our entitled rights, policies, and the realization of our vision for the future of Hong Kong.

President, the Labour Party will adopt a "trilogy" to deal with the integrity issue of Donald TANG. The first part of the trilogy is the Chief Executive's Question and Answer Session to be held this afternoon. The second part of the trilogy is the invoking of the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to conduct an investigation. Naturally, it would be

even better if the ICAC should conduct an investigation into this. The two investigations can be conducted simultaneously. By invoking the P&P Ordinance, we can make Donald TSANG reveal who his tycoon friend is. We will wait and see if he will reveal that this afternoon. Upon finding out who his tycoon friend is — certainly, he may have more than one tycoon friend — we can then make him disclose the details of the hospitality offers and whether he has effected any transfer of benefits in discharging his duties. If we do not know who his tycoon friend is, how can we know which parts of his duties have been involved? As such, we must invoke the P&P Ordinance.

The third part of the trilogy is the impeachment mechanism. We can initiate the mechanism if we find out that he is really a gravely corrupted public officer.*(The buzzer sounded)*

Thank you, President.

MR JAMES TO (in Cantonese): President, the series of news stories and news reports the Chief Executive or other candidates running in the Chief Executive Election have indeed impacted gravely on the reputation of Hong Kong. Why? This is because in the eyes of the world, Hong Kong has all along been an international city with an edge, namely, the so-called four pillars. Among these four pillars, the most important one is our clean government and establishment. Other countries and places, including some international rating agencies and think tanks, do approve of this fact very much. The news reports published recently, particularly the ones relating to the Chief Executive's involvement in some interests, have impacted gravely on Hong Kong. As such, I have been rather downhearted lately.

President, the most distressing part about all this is that our Chief Executive is not suddenly elected from nowhere. If he has never been in the public service before, it is possible that he may find it hard to adjust to the established practice within a short period of time. This is by no means an acceptable excuse though. However, it is even more regrettable that our incumbent Chief Executive has been a civil servant for decades, working his way up from Executive Officer to the Chief Secretary for Administration. During those years, in addition to accumulating public service experience, he has also

been observing the same set of rules consciously and cautiously. Hence, it is just impossible for him to have no idea what those rules are. How can he be unaware of such rules? As he has recently said, public officers must be seen to be clean and involved in no conflict of interests. Besides, they must also comply with statutory codes as well. Hence, the rules they have to observe are indeed very stringent. Seeing that his present post is just one rank higher than the post of Chief Secretary for Administration, we cannot help but wonder how he could end up like this upon climbing up just one rank? Why have his self-awareness and vigilance suddenly fallen short of public expectations?

Last Sunday morning when I heard the Chief Executive make his case in a radio programme, I was indeed angry. Just like other programme hosts, I also queried the Chief Executive's allegation that the community has changed and members of the public have raised their expectations. Members of the public have all along been keeping the same expectations, and such expectations have not been raised or lowered significantly. Besides, we have never lowered our expectations after the reunification. Actually, we have been even more persistent ever since. With more and more people of Hong Kong doing business on the Mainland, we just know how the situation is across the boundary. So, we can see that the standards of the public have never been lowered; they have been remaining at a high level. It is the Chief Executive who has lowered his standards. He has climbed one rank up but his expectations of himself have been lowered and relaxed. He has lost his vigilance.

President, the Chief Executive has to make friends with people from different walks of life, including eating and chatting with a member of the public in a cafeteria. Actually, we Members of the Council do that very frequently. Almost every time I eat in a cafeteria sometimes I go there with my wife, and members of the public may find it not very convenient to sit at our table, and so they will have a short chat and walk away. If I go there alone to have a bowl of fish ball with hefen in soup, in just 10 to 15 minutes' time, at least two to three members of the public will approach me for a chat. This is particularly often recently, with so many things taking place these days, and people often like to come up to have a chat. Certainly, I should not expect the Chief Executive and his tycoon friends to eat fish ball with hefen in soup or boxed meal like I and the general public do. He does not lead this kind of life. However, we members of the public do have a measuring tape in our hearts. We believe it is perfectly all right to have meal together, and it is also all right even if they go to a

comparatively more high-class restaurant to have meal together. But then, if the Chief Executive boarded a person's yacht and spent the night onboard just because he wanted to get in touch with that person to understand his views, did he spend the night sharing views with that person? Perhaps not, perhaps he just spent the night sleeping. I guess they would not be discussing issues in the middle of the night. In that case, why must he spend the night there?

Certainly, the Chief Executive may consider it perfectly all right to spend the night there, which is just like staying at that person's home a little longer. But the public would like to know in what capacity did he spend the night there. At the beginning, the Chief Executive said that those were his friends. In other words, he was not exchanging views with the persons concerned in his official capacity. The discussion was just some sharing of ideas among friends. Certainly, he can stay at his friend's place for the night. But the problem remains that since he is the Chief Executive, members of the public will have suspicions given that he claims to have friends from all walks of life and different sectors, the public will query whether such friends are his personal friends or official friends. If they are his personal friends, he may have given others the impression that those are his close friends, and that their close ties have caused him to casually accept hospitality offers which are rather excessive in nature in the eyes of the public. In that case, the public can hardly believe him but feel worried. They just wonder whether the Chief Executive has been biased in discharging his duties, as these people are all his personal friends, not official friends.

President, being a public officer — I have been a Member of the Legislative Council for some 20-odd years — we need to keep a very clear mind. When we attend a reception or other functions in our capacity as Members of the Council, even the richest man in town may come over to greet us, and may even have a drink with us warmly. Nevertheless, we should never forget to ask ourselves whether he is really our friend. Even if he has a nice chat with us in a reception and acted in a very cordial manner, is he really our friend? Once a retired senior government official claimed that a certain tycoon was his friend, but that tycoon pointed out that he just treated him as a public officer. From this incident we can see that it is really very important for us to keep a clear mind.

Our Chief Executive should know that being the Chief Executive, his social status and official capacity will certainly enable him to make friends with a large number of people. If these people still consider him a friend after he has completed his term of office, then these people can be considered his friends. On the other hand, if these people no longer treat him as a friend once he has retired from office, those should not be considered his friends, right? But the problem remains that so long as he is still in the public service, such friends are closely connected with his official capacity in thousands of ways.

President, in answering the various questions posed by colleagues, the Chief Executive has repeated his answer many times. To cite an example, he mentioned that "if no conflict of interests is involved, he may consider accepting the relevant offer in compliance with the established internal rules." Such kind of logic will give rise to huge problems. What are the benchmarks used by the Chief Executive in considering whether or not any conflict of interests is involved? Frankly speaking, there may perhaps be some persons or things on earth that really do not have any conflict of interests with the Chief Executive and will not arouse any suspicion among the people. I believe such persons or things do exist. Let me cite an example for illustration. The operators of some private enterprises on the Mainland do not run any businesses in Hong Kong, they only do business on the Mainland. Even though they have some investment in Hong Kong like buying and selling stocks and properties, such activities may not have anything to do with franchises or licences. I believe there are some people whose businesses have nothing to do with and will not be affected by the policies of the Government. Nevertheless, I just wonder how many such friends does the Chief Executive have. I also wonder whether such "friends" will make such hospitality offers to him unconditionally and become close friends of his.

In accepting such kind of hospitality offered by his friend, has it ever occurred to the Chief Executive that he was about to rent an apartment from this friend and the relevant negotiation process was in progress, and that this friend was a major shareholder of one of the corporations to be granted a licence? I cannot help but wonder if he also failed to remember the relevant rules when he was the Chief Secretary for Administration, the Financial Secretary, or the Secretary for the Treasury. In my view, given that he has been in the Civil Service for dozens of years, he should always bear those rules in mind. This is because Administrative Officers have to undergo very stringent training, and they

know very clearly what rules they must comply with, what things they can do and what they cannot do, as well as what things they should take note of. In addition, they are trained to consider all kinds of possible scenarios, such as policy considerations, public perspectives, human rights factors, economic implications, conflict of interests, and so on. It is their practice to consider all the relevant issues together.

If he could always remember the relevant rules during the past dozens of years when working his way up from a junior civil servant to the Chief Secretary for Administration, then how come when he is now the Chief Executive, he cannot remember such rules and has totally no idea of the background of the friend offering hospitality to him? Should that be the case, I just do not understand the way the Chief Executive makes friends. He should at least have some basic idea of his friend's background, such as the corporations they belong to, whether they are engaged in the shipping or retail industry, and so on. He should have some basic idea. If a friend of his who is mainly engaged in real estate business suddenly enters a special trade like cultivation of lingzhi and the investment involved is merely several hundred thousand dollars, it is not surprising that the Chief Executive cannot recall that at a fleeting moment, and the public will also find this understandable and acceptable. However, if this friend's major business operations in Hong Kong are related to the policies of the Hong Kong Government or even involve the granting of franchises or approval for price increases, which is part of the work that the Government has to do and submit to the Executive Council for deliberation and consideration every year, will the Chief Executive still be so insensitive?

I have read an article in the *Hong Kong Economic Journal* written by Mr LAM Hang-chi. The article says that when a person has got used to some hospitality offers, he will consider the people making such offers his friends — naturally, those friends will treat him warmly; and in particular, they will offer him hospitality to make him feel that they are his real friends — when he gets used to having many attendants crowding around him and accepting such kind of hospitality, he will slacken gradually. President, I always keep reminding myself of the need to comply with the stringent standards. I would also like to extend this friendly reminder to you, to colleagues from the Democratic Party, the pan-democracy camp, as well as other colleagues in this Council.

I have jokingly mentioned that Mr CHIM Pui-chung would treat us to a meal every year. In extending the invitation to me, he always said that he was not trying to get anything from me. Then, I would immediately ponder whether our relationship should be considered as friends or just colleagues in the Council, and in what ways could his political views be related to me. I always consider matters in this way, and I believe we should be more sensitive and vigilant. I wish colleagues in this Council could join me to encourage and motivate each other in this respect.

President, I wish to point out that section 3 of the Prevention of Bribery Ordinance (POBO) should be amended, and the Independent Review Committee chaired by Justice Mr Andrew LI Kwok-nang will certainly make some recommendations in this respect. The Chief Executive is subject to the other provisions of the POBO but not section 3, which is related to acceptance of advantages. I find it totally unacceptable that the Chief Executive can enjoy a privileged constitutional position. Besides, the present mess is also attributable to the fact that he can draw up his own codes. Indeed, the Chief Executive should be subject to section 3 of the POBO like other public officers. I believe such an arrangement will neither cause any inconvenience to him in discharging his duties, nor impact on his friendship with people from different walks of life, including the wealthier ones.

Last but not least, the investigation to be conducted by the Independent Commission Against Corruption (ICAC) should proceed in a more meticulous manner. This is because the damage done now is already grave enough, so if the ICAC should give people an impression that it cannot conduct an impartial investigation independently, and if the Chief Executive should make any office appointments or removals in the interim or exercise certain power the worst thing is that the head of the ICAC is appointed by the incumbent Chief Executive, and the members of the Operations Review Committee (ORC) are all appointed by the Chief Executive. When the existing institution is being challenged to the extreme, the institution in place in Hong Kong will collapse if we fail to secure people's confidence in it. Hence, I just hope the structure of the ORC can be reformed, so that its members will not be entirely (*The buzzer sounded*) appointed by the Chief Executive alone.

MR ALBERT CHAN (in Cantonese): President, I find the wording of today's motion for the adjournment of the Council open to discussion. According to the wording of the motion, we should be discussing the probity of the Chief Executive, but I think he has already lost it, has he not? It can be said that his probity is already bankrupt. The existing administrative structure of Hong Kong, in particular the upper level, has degenerated to a state where traditional ethics are laid in ruins. The entire structure is filled with grasping greed and unrestrained avarice.

President, the netizens in Hong Kong have given this title to the Chief Executive: the "Number One Covetous Official of Hong Kong". Seeing that he has been "reaping benefits at sea, on land and in air", "enjoying the best" in Guangdong, and "enjoying the best" in China, Japan and Thailand, not many of the corrupted officials so far are comparable to him. He has contacts with people of backgrounds, who have offered him not only rides on their yachts and private jets but also extravagant hospitality. What is more, he is also "cheap" enough to borrow a used piece of sports equipment for seven years. It is indeed very difficult to find anyone comparable to him.

Even more absurd is that over the past 10 days or so, while both the media and Members of the Council have been asking him for relevant information and the various issues involved, and some have even written to the Chief Executive's Office (CEO) direct or raised questions in this Chamber — the President has eventually ruled that such questions be answered in the form of written replies — and even in the written replies so provided, he is still refusing to answer the majority of the queries raised or disclose the requested information. He is indeed utterly shameless.

Despite his position as Hong Kong's highest leader in government, Donald TSANG chooses to refuse disclosing any specific information in the face of the criticisms concerning his corrupt practices and attempts to "reap benefits". With his high position and substantial authority, as well as his self-acclaimed probity and good quality, if he was not "dirty" or involved in some issues and circumstances that cannot afford to be exposed, why would he choose to respond in such a "tacky" manner, refusing even to disclose some basic information? When being asked who did he travel and share a chartered flight with, he refused to respond; when asked what hotels they had stayed at during the trip, he refused to respond either. And he also refused to tell who had paid for the

accommodation expenses in those few days. He is in effect refusing to be held accountable to the public and the Legislative Council, reflecting nothing but his incompetence and shamelessness. Has he disregarded totally his responsibilities as a public officer?

According to constitutional relations, the executive is accountable to the legislature. One of the functions of the Legislative Council is to hold the Government accountable. This is our constitutional position, as well as our sacred responsibility and mission. If something is wrong with the conduct or performance of the executive and its agencies, or even the policies and legislation drawn up by them, it is the sacred responsibility of the Legislative Council and the sacred mission of Members to question the covetous officials and problematic governing class. It is our duty to question and impeach this shameless and incompetent government on behalf of the 7 million people of Hong Kong. Nevertheless, our Government has resorted to avoidance and all kinds of despicable means to respond to the requests made by members of the public and their representatives.

Looking back on the developments in connection with the incident so far, we can only see how the Chief Executive and the CEO keep playing for time and evading questions, with the entire picture portraying the corrupt practices of this Chief Executive, the "Number One Covetous Official of Hong Kong", being unavailable. One of the major reasons for the Chief Executive being so blatantly unscrupulous and supercilious is that the relevant laws and regulations in force in Hong Kong connive at his corrupt practices and allow him to become the "Number One Covetous Official" and keep on with his blatantly unscrupulous practices. According to the legislation enforceable by the Independent Commission Against Corruption (ICAC) to prevent corruption and malpractices, the Chief Executive is exempted from many of the provisions governing civil servants and officials under the accountability system. In other words, the Chief Executive is not subject to the monitoring and regulation of the relevant legislation. So, as far as the monitoring and regulatory capacity of the relevant legislation is concerned, there are indeed some intrinsic shortcomings.

Shortly after Donald TSANG became the Chief Executive, a senior government official who joined the Civil Service at the same time as Donald TSANG told me that Donald TSANG considered himself the emperor — I have referred to this remark several times in this Chamber. His recent performance

and his deeds as the "Number One Covetous Official" reflect precisely his belief that he is the emperor. Moreover, the existing legislation and mechanisms also allow him to act like an emperor and the "Number One Covetous Official". Hence, it is exactly this coterie election mechanism stipulated in the Basic Law — perhaps reference had been made to the model on the Mainland at that time — that enables an official with authority to engage in corrupt practices. However, only the Chief Executive can do so, for other civil servants and officials under the accountability system do not have such a privilege.

In his car purchase case, Antony LEUNG took the blame and resigned even though the case was just a trivial matter. However, if we just name a few cases randomly, we can see that any one of the cases in Donald TSANG's "sea-land-air corrupt practices" is more serious than the case of Antony LEUNG by ten times, a hundred times, even a thousand times. His case of luxury flat lease is ten thousand times more serious than Antony LEUNG's car purchase case. Nevertheless, he can still remain in office and does not look shamefaced at all. Members, can you tell just how absurd the existing institution is?

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

Deputy President, I wish to invite Members to review some past cases of corruption involving civil servants and see what crimes are actually involved in those cases. We can see that some of the cases are indeed very shocking. If Donald TSANG could remain unaffected by the various cases involved in his "sea-land-air corrupt practices" and stay in power, if he would not be subject to any punishment by law, the relevant persons who were sanctioned by law in the past could be considered extremely innocent.

Let me tell Members the particulars of a number of cases and their relevant judgments. In 2003, SIN Kam-wah was convicted of acceptance of free sex service and sentenced to three-year imprisonment, and the term of imprisonment was reduced to two years after his appeal was allowed. LEUNG Wai-yin was convicted of soliciting advantages and sentenced to 21-month imprisonment. He has also lost his job and pensions because of this conviction. MOK Ho-ho, a former General Assistant of the Leisure and Cultural Services Department, borrowed \$500 from a tennis coach whom he has known for 10 years and

incurred a conviction of breaching the Prevention of Bribery Ordinance. He lost his job and received a sentence of 70 hours of community service order upon conviction. Deputy President, what MOK Ho-ho did was to borrow \$500 from a tennis coach whom he has known for 10 years. I hope very much that MOK Ho-ho will come forth and reprimand Donald TSANG. The sentence in the case of MOK Ho-ho was passed recently in 2012.

Here are some other past cases: In 2010, LI Wing-wai was sentenced to three-month imprisonment for soliciting and receiving a loan of \$180,000 from his subordinate. LEUNG Chi-kong was charged with soliciting and accepting bribe money totalling \$80,000 for harbouring escort girl services, and was sentenced to 16-month imprisonment upon conviction. WONG Kwok-hung, a former Sha Tin District Council member, solicited \$100,000 bribe money from a bus service provider and incurred one-year imprisonment. CHAN Kau-tai was sentenced to six-year imprisonment for soliciting bribe money from contractors. SO Hoi-chuen was charged with acceptance of advantages, can you guess what advantage was involved in this case? Deputy President, when he was in service, he accepted an offer of free accommodation in an apartment in Macao from a person under investigation by the police, and the rental benefit involved was estimated to be \$20,000. He was convicted of acceptance of advantage and sentenced to 15-month imprisonment. He had to stay in jail for 15 months because of the free accommodation in Macao. Furthermore, CHAO Kam-yan was sentenced to 36-month imprisonment and a compensation payment of \$10,000 to the Government for accepting "moon cake" coupons totalling \$2,000.

Deputy President, do you not find all this very absurd? What kinds of benefits Donald TSANG, the "Number One Covetous Official", has accepted through his "sea-land-air corrupt excursions"? As regards the relevant persons mentioned by me just now, in particular those of junior ranks, they were sentenced to imprisonment or community service order for accepting "moon cake" coupons totalling \$2,000, a loan of \$500 from a tennis coach acquainted for 10 years, or free accommodation in Macao. They have also lost their jobs as a result of the conviction. What is more, many of them have even lost their pensions, which could amount to hundreds of thousands of dollars. So, these are the prosecution and punishment facing the 160 000 civil servants in Hong Kong. Nevertheless, this "Number One Covetous Official" can keep on bluffing and cheating, swaggering around pretentiously, wearing a sad face and trying all

kinds of means to put off answering questions and disclosing the relevant information.

Deputy President, Donald TSANG will attend the Chief Executive's Question and Answer Session to be held this afternoon, but I do not think Mr WONG Yuk-man and I will have any chance to raise a question. I have no idea how many Members will raise questions today, but in view of the order for raising questions, our chance is indeed very slim. In any case, I just hope that Members who have a chance to raise their questions will not "offer great assistance in the disguise of light criticisms". Instead, Members should target at his refusal to disclose any information and make an effort to do justice to the 160 000 civil servants. We should never allow Hong Kong to have two sets of laws and two sets of system which enable senior government officials to benefit the senior officials at the expense of the junior ones or impose lenient rules on the senior officials but stringent rules on the junior ones, whereas the general civil servants have to suffer grave impact and incur punishment for life because of some minor mistakes, thereby causing their families to suffer with them as well.

We all know very well that for those people who have lost their jobs, especially the middle-aged in their forties or fifties, their situation can be very miserable. However, the case of the Chief Executive is another story. In addition to the remuneration for the office of Chief Executive, his former job as a civil servant has also earned him enough pensions. Nevertheless, he is still so greedy and avaricious. We just cannot help but feel extremely indignant.

Deputy President, the Chief Executive's term of office still has four more months to go. As Members of the Council, we should consider specifically how we are going to handle this issue, and in particular, we should not be "offering great assistance in the disguise of light criticisms" anymore. In dealing with this covetous official, the only thing that Legislative Council Members can do at this stage is to initiate the impeachment procedure. Many Members have stated that as the ICAC has commenced its investigation, we had better wait until the ICAC has come up with some results to consider whether or not to initiate the impeachment procedure. But then, we have to understand that while the investigation conducted by the ICAC is a criminal investigation, the impeachment procedure to be initiated by the Council can be based on some political decisions. This is because the Chief Executive has defied political integrity and public expectations, notwithstanding that his so-called corrupt practices may not be

exactly the same as those prescribed in the provisions of the relevant legislation. On the other hand, we certainly have to wait for the investigation results of the ICAC and see whether any prosecution can be initiated on common law grounds eventually.

However, judging from the *prima facie* information, including the series of news stories in the various newspapers and particularly the front-page coverage of the *Oriental Daily News* in the past consecutive days, there should be *prima facie* evidence and proof specific enough to verify his "sea-land-air corrupt excursions". What is more, he has so far refused to disclose any information. Hence, in view of the political stance and basis concerned, we should be able to initiate the impeachment procedure. The Legislative Council is duty-bound to initiate the impeachment procedure, and we also need to do justice to the 160 000 civil servants.

Deputy President, the People Power and the Hong Kong Reporter will be staging an event named "Join the city in beating the petty person" this coming Sunday. Participants will set off from Causeway Bay at 2 pm and arrive at Chater Garden at 4 pm. We hope that we can set a Guinness World Record of beating the petty person (*The buzzer sounded*) beat the two TSANGs, beat the covetous officials.

DEPUTY PRESIDENT (in Cantonese): Mr CHAN, your speaking time is up.

MRS REGINA IP (in Cantonese): As the only former Administrative Officer (AO) in this Council, I would very much like to take this opportunity to express my views on this matter, which are shared by many of my former colleagues. Let me first recap some history, back to the days when I first joined the Government in 1975 as an AO. I wonder if colleagues have noticed that there is a pattern of the Chinese character "正" (meaning "righteousness") on the necktie worn by AOs? As the saying goes, "To govern means to rectify." Public officers should of course be upright and honest and stick steadfastly to the right path. This is the reason why our expatriate supervisors have incorporated the pattern of the Chinese character "正" into the design of our necktie.

A pamphlet on the AO grade was given to me when I joined the Government and I remember being told by some senior expatriate officers, who were the Chief Secretary then, "You won't become fabulously rich by joining the AO grade." It means that it would be unlikely for us to become a tycoon on this job. However, they told us, the job was financially rewarding and we would undoubtedly be materially well off. They went on to elaborate that the most important point to bear in mind was: being an AO would be a most challenging career, which would give us a great sense of personal satisfaction and enable us to serve the people of Hong Kong in many different ways. Indeed, as officers of the AO grade, we often say in a joking and sarcastic way that what we gain when we first join the grade will be offset by what we lose in the latter part of our career. The entry pay of an AO is almost the highest among officers of various grades and the current starting point is nearly \$40,000, a level hardly available in other posts. Nevertheless, it is also commonly known that though reaching the maximum salary point, what we get can never be compared favourably with the remuneration offered for certain positions. For instance, the salary of the Financial Secretary is not as attractive as that of the chief executives of major banks, let alone the one offered to senior officers of the Hong Kong Monetary Authority, an institution covered by the portfolio of the Financial Secretary. It really does not matter because when joining the AO grade, we all know that it is not the pay level that counts; and that as a civil servant, we should be committed to Hong Kong and have a sense of mission in discharging our duties. Furthermore, AOs are entrusted with a high level of administrative power and thus, our former supervisors from the United Kingdom often reminded us to stick to the rules.

From what I recall, upon joining the AO grade in 1975, I was first posted to the position of Assistant Secretary of Civil Service Discipline II (ASCSDII) in the Conduct and Discipline Division of the Civil Service Branch, responsible for handling disciplinary matters. It was not long after the establishment of the Independent Commission Against Corruption and apart from paperwork on conviction cases involving corrupt officials, I was also required to seek the advice of senior officials of the British Government on a number of issues. Telegraph messages had to be sent to the Foreign and Commonwealth Office to have corrupt officials dismissed and besides, disciplinary actions had to be taken against officers accused of misconduct which was not serious enough to warrant conviction. They were often found to be in contact with persons whom they should not associate with, or were accused of accepting certain advantages, or

were found living an exceedingly luxurious lifestyle, thus constituting a misdeed which had fallen short of the level of integrity expected of a public officer. Such officers were usually forced to retire.

I totally agree with the views expressed by many colleagues just now and concur that in the face of accusations, the misconduct of civil servants in lower grades will be put under a microscope and magnified as very serious misdeeds. They will be severely punished under the civil service system though they have only got a loan of an amount exceeding the permitted level by a few thousand dollars, or have been caught in financial difficulties. Therefore, I fully agree that in the long run, it would be impossible to exclude the Chief Executive from the regulation of acceptance of advantage as provided under Section 3 of the Prevention of Bribery Ordinance. Should there still be such a thing as "criminal law not applying to senior officials" nowadays? I have worked as a branch secretary as well as the principal assistant to a branch secretary before, and I understand that gifts would be sent to bureau secretaries from a lot of people. Before the reunification, while I was working in the Trade and Industry Branch, CHAU Tak-hay was the Secretary for Trade and Industry and he was once invited to be the officiating guest of the inauguration ceremony of a new building. After the ceremony, he looked embarrassed and handed a gift package to me, indicating that it was given to him by the businessman who developed the building. I opened the package and found that there were choice dried seafood inside, such as shark's fin, bird's nest and abalone. Mr CHAU, apparently embarrassed, said that he could not accept the gift and asked me to take care of the matter for him. Subsequently, I gave the businessman a call and thanked him for his kindness but I indicated to him that civil servants could not accept gifts of such a nature. However, as the gift had already been handed out, it would be a breach of etiquette if we returned it to him. Such being the case, I suggested that if he found it acceptable, the gift would be handed to the Civil Service Branch, which would dispose of the gift at its discretion, and donating it to charitable organizations would be one of the options. Eventually, the gift was handed over to the Branch in this way.

I have also received many gifts from a lot of people when I was a Bureau Director, but I have never received any fine red wine, definitely not. For instance, during business trips to the Mainland, tea leaves or local products of the places visited would be given to us and we had to keep a detailed record of each and every item received on returning to Hong Kong. For this reason, my

secretary would always be very busy keeping such detailed records for submission to the Civil Service Bureau. Therefore, in my opinion, being the public officer of the highest rank, there is no reason for Chief Executive to argue that there is no one to accept his applications in this regard given that he was the official of the highest rank, and thus he can only exercise self-discipline in complying with such rules. The problem can actually be easily solved by engaging a third party to handle the applications for him. In future, the Chief Executive may consider appointing an officer to keep the records for him, then submitting it to a judge or an independent and honest person with social status and credibility. It will be alright as long as a record is kept and put on file by the Court.

I have mentioned to a number of colleagues that to my knowledge, civil servants feel ashamed about the incident and it can actually be described as an utter disgrace which has brought the whole Civil Service into disrepute. We are not sure about the truth but with our leader getting involved in such accusations, as well as the comments from the mass media overseas which suggest that "Hong Kong was better under the British", isn't it a real disgrace for all of us? I believe, past and present, most AOs are honest and upright. However, as far as both the acceptance of gifts and social acquaintances are concerned, it is our genuine hope that the next Chief Executive will set a very good example for us.

As regards yachting excursions enjoyed by the Chief Executive, I was asked by many reporters if I had been on a yacht before. I certainly have, but only on a very few occasions. This can be attributed to the fact that I got in touch with only a few tycoons when I held the position of Secretary for Security, and that I had to take care of my daughter. From what I recall, I was once invited to a yachting trip by a Liberal Party member and Deputy President, you were also present then and I wonder if you still remember it. It was an afternoon trip, for which I had brought along my daughter and you came with your son. There were quite a number of luxury yachts in the sea of Sai Kung that day, do you remember? When buffet was served, my daughter had even taken care of some food for your son. Upon arrival at the sea of Sai Kung, I said to the host that his yacht was very luxurious but he replied that the more luxurious ones were yet to come and they would definitely be some eye-openers for me. When we arrived at the destination, the luxurious yacht of James TIEN was already there and I went aboard to have a look. I then found next to it an even more luxurious yacht owned by another tycoon. My daughter was very impolite and

she jumped into the bed without taking off her shoes, which really embarrassed me and put me to shame. I was then told by a tycoon that an even more luxurious yacht was coming and since it was as big as a warship, it had to sail at lower speed. I was later invited by him to board this giant yacht and found that it was really as big as a warship. Guests on board included public officials, Council Members, school principals and celebrities of the town. They were enjoying buffet, swimming and all these were normal social activities. How can government officials shut themselves off from people of business circles? If we do not get acquainted with them, they will feel that we are being arrogant and when we try to solicit their support, they will hit back by claiming that they do not know us. Such social contacts are necessary and normal both at present and in the future. Nevertheless, it is my opinion that as public officers, no matter Council Members, government officials or chairman of certain important committees, we should always bear in mind that our conduct should never lead to suspicion of favouritism to any particular sector, since the community has very high expectations for honesty and integrity.

There is a proverb which goes, “Every cloud has a silver lining”. I hope that the wide public concern caused by the current Chief Executive Election about honesty, observance of law and professional ethics will be the silver lining behind the election war, setting a higher standard for honesty, integrity and professional ethics among the people of Hong Kong and calling for a more thorough self-reflection from each and every public officer. I also hope that the Government will devise a set of rules to regulate the conduct of officers at the highest rank, and that there is no such thing as "criminal law not applying to senior officials" as far as the disciplinary code of conduct and discipline is concerned. According to what I have heard before, severe disciplinary actions have been taken against a lot of junior staff members, disciplined service officers and police officers who were just one step out of the line. Some of them have lost their pensions and some, fearing that the loss would get their family into trouble, chose to kill themselves by jumping off a building. Similar cases abound and if a double standard is allowed to exist under the practice of "criminal law not applying to senior officials", morale in the Civil Service will decline. I hope the current debate will heighten the vigilance of all public officers and set a higher standard for the Government of the next term. Thank you, Deputy President.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, "This city is dying" is a line in the TV drama series *When Heaven Burns* shown by TVB at the end of last year that alludes to the decline of this city. The recent incidents caused by the Chief Executive have indeed prompted many Hong Kong residents to question from the bottom of their hearts: Does the head of our Government believe unwaveringly in the core values of Hong Kong? Among those core values, the most significant one, as well as the one that most Hong Kong people are proud of, is clean government.

Deputy President, in the light of the political changes in Hong Kong in recent years, many people have requested that our civil service system, particularly the Administrative Officer system, should be reviewed. Some even criticized that, notwithstanding our civil servants being remarkable talents, the training for them are too rigid and bureaucratic, thus making them inflexible and unable to cope with international crises. Nonetheless, we have never heard of anyone criticizing our civil servants for being not clean in any way.

To give the matter its fair deal, the Civil Service of Hong Kong is indeed highly trustworthy, hence both Hong Kong people and the international community can have so much confidence in it, and it has already become an icon of ours. If Members have friends from the four places on both sides of the Straits, they should have often heard their Taiwanese or Mainlander friends remarked that tiny issues can develop into huge issues in Hong Kong, since we have set very high standards for our interest declaration and integrity systems.

Hence, I feel particularly sad that today we have to debate the corruption scandals suspected of the incumbent Chief Executive. For whenever I give lectures in the Mainland or Hong Kong, I notice that the establishment of a system in Hong Kong to keep our government clean is the subject that many Mainland officials are keenly interested in, and it is also an achievement that they greatly appreciate. This is a goal they pursue to attain, as well as one of the most treasured core values in which Hong Kong people have taken pride all along.

I believe "everyone is equal before the law" is a universal rule recognized by everyone. However, if all these suspected incidents relating to the declaration of interests and acceptance of treats from tycoons by the Chief Executive did not come to light, we may not realize that to a certain extent, the

Chief Executive is exempted in certain issues and certain areas under the Prevention of Bribery Ordinance (POBO). I find this a huge shock as well as a significant warning.

Among all the rumours, I find renting an apartment in the Mainland the most serious one, since a major business interest — digital broadcasting — was involved, and the broadcasting licence was approved eventually. Therefore, he must give the public an account of whether any concrete transfer of benefits was involved. In my view, the Chief Executive's responses to be given in the one-hour Question and Answer Session to be held this afternoon with respect to the various allegations of transfer of benefits or acceptance of excessive hospitality that he is currently facing would be inadequate to meet the expectations of the general public of Hong Kong.

In fact, when I first heard the news, I tended to not believe in it, as I always believe that the Hong Kong Government We have heard a lot of these things happening in the Police Force, but this time, a top government official — and surprisingly the Chief Executive — is involved. I feel terribly shocked and sad when I heard the news. A series of scandals relating to transfer of benefits by the Chief Executive has now come to light, and the Independent Commission Against Corruption (ICAC) is one of the key investigation bodies. The ICAC was established in 1973, and most Hong Kong people knew the ICAC when they were kids. I can still recall a piece of news I heard when I was a small kid — a worker was arrested simply for either having drunk a glass of coke or accepted a red packet of \$10. That was an exemplary case which taught Hong Kong people of the importance of integrity and the awareness that all issues, from big ones to trivial ones, should be handled prudently and cautiously.

In respect of the rumours about the Chief Executive's suspected acceptance of advantages, more updates with increasingly harsh allegations are released almost every day. Hence, I agree that the Chief Executive should address the issue with full transparency and make everything public. Back then a piece of legislation was only enacted with substantial trust in the Chief Executive's integrity, granting the Chief Executive exemption from the check under certain circumstances, which is a different treatment to which no other civil servants are entitled. However, under common law and the POBO, the Chief Executive is subject to the same check as the ordinary masses. Therefore, as we learned from the news report, the ICAC will initiate an investigation into the case.

However, as I have learnt from the news, the ICAC Commissioner, Mr Timothy TONG, once publicly said that he and Mr WONG Cho-bau, one of the persons involved in the case, are friends. Here I would like to bring out a point: It would be better for Mr TONG to distance himself from the investigation into the Chief Executive's case, and pass the case to other colleagues for follow-up. In fact, during the trial of the shocking "Congo case" in the High Court last year, a Judge of the Court of Final Appeal abstained from the trial voluntarily since the trial involved the judgment of the Court of Appeal, and his wife happened to be a Judge of the Court of Appeal. Despite the fact that hardly any economic benefit was involved, he abstained from the trial voluntarily.

This is only my suggestion. If the ICAC Commissioner, Mr TONG, once publicly indicated that he and Mr WONG Cho-bau are close acquaintances and there were occasions on which they had played golf together, to avoid creating more scandals, he had better abstain from the investigation into this case. According to the principle of natural justice in common law, if a person is under investigation, he should be given reasonable opportunities of defence, and those in charge of an investigation should avoid involvement in the investigation anything considered as potentially biased by the majority public. We should strictly abide by these two principles.

Mr Paul TSE proposed that now is the time to invoke Article 73(9) of the Basic Law which stipulates that if a motion initiated jointly by one-fourth of Members is passed, an independent investigation committee chaired by the Chief Justice of the Court of Final Appeal will be formed to initiate an investigation and study whether there is sufficient evidence to substantiate an impeachment against the Chief Executive. In my view, it is premature to debate Article 73(9) at this moment. We should follow a couple of procedures first, and the same set of criteria should be applied to the Chief Executive. And we should also strictly adhere to the principle of fairness and justice and give him adequate opportunities of defence. For this reason, inviting the Chief Executive to the Legislative Council this afternoon is desirable. Just now I predicted that the one-hour Question and Answer Session will be far from enough, and it may even arouse more questions and doubts among colleagues. But this is a natural outcome. Therefore, should the Chief Executive wish to eliminate all public accusations or queries, he should expeditiously give a comprehensive account of all the rumours in relation to him.

After giving the Chief Executive reasonable opportunities of defence, if we still consider the case critical, then a dedicated investigation committee can be formed by either directly following Mr Paul TSE's proposal or invoking the Legislative Council (Powers and Privileges) Ordinance as proposed by some Members today; I will support both directions. Therefore, here I suggest that the Chief Executive must give a comprehensive account of everything, including those oversight and inadvertent incidents, since the people of Hong Kong have high expectations, and they have heard the rumours in relation to the Chief Executive in details. We must have a convincing explanation.

Given that Article 73(9) is written into the Basic Law, it is possible that it will be invoked one day. The widely debated Articles 50 and 52 of the Basic Law are provisions regarding the dissolution of the Legislative Council and the resignation of the Chief Executive under certain circumstances. Some people opine that the actual invocation of these Articles may lead to constitutional crises, but I disagree with such views. The relevant Articles in the Basic Law aim at enabling the systems of Hong Kong to deal with some critical situations on its own in a legitimate and constitutional manner. Of course, I wish none of these situations will arise. When I talk about and comment on these issues, I feel so sad indeed.

All public figures, particularly the head of the SAR Government, irrespective of the privilege they enjoy under the law, the standards that they set for themselves should still be higher than that for the ordinary people and civil servants in general. Only in this way can they convince their subordinates and command their trust. Therefore, I think the Chief Executive should give an account to the 160 000 civil servants in Hong Kong. In fact, I am aware that our civil servants are all along subject to stringent checks. All civil servants, including the most junior ones, at the time they join the Civil Service, are reminded that under no circumstances should they do anything that may arouse allegations of conflict of interests.

Here I would like to reiterate that in addition to the response the Chief Executive is going to make in today's one-hour Question and Answer Session, the Chief Executive and his team should and must make adequate preparations for giving the public an account of the various rumours, so that any mistakes identified can be rectified, or if none, the Chief Executive can vindicate himself. Currently, the Chief Executive has only reacted by appointing an independent

committee chaired by the former Chief Justice of the Court of Final Appeal to conduct a review on the future system. But in my view, this approach is merely "chopping off the toes to avoid insect bites". This is something that must be done, for I believe a set of standards with clearer and more stringent provisions, mechanisms and regulations should be drawn up and made applicable to future Chief Executives. In fact, a system with more stringent requirements is perhaps good for the Chief Executive, since it can prevent the Chief Executive from making wrongdoings under temptations, and thus he will be less likely to make mistakes. Moreover, it can serve as a significant warning for any person taking up the role of Chief Executive in the future.

Deputy President, I so submit.

MR WONG YUK-MAN (in Cantonese): Deputy President, on 13 October last year, the Chief Executive, Donald TSANG, came to the Legislative Council to attend a Chief Executive Question and Answer Session. The first Member to ask a question was Mr WONG Yuk-man. At that time, in asking my question, I quoted from the book of *Li Lou* from the works of Mencius, saying "When a man destitute of benevolence is in a high station, he thereby disseminates his wickedness among all below him."¹. And I asked, "Why did he appoint a Bureau Director with such a low popularity rating as the Chief Secretary for Administration?"

I went on to say, "So those talented people would not join the ranks of one who only has lowly aides under his command" (from "Reading Biography of MENG Chang-jun" by WANG An-shi), meaning that the host of so-called "guests" recruited by MENG Chang-jun were actually all "swindlers of all sorts" and all rogues. This is also the case with the SAR Government: "So those talented people would not join the ranks of one who only has lowly aides under his command ". Then, he said in his reply that I used foul language. I talked about Aristotle and Pluto but he accused me of being a triad member.

Next, Mr LEUNG Kwok-hung interrupted and raised a point of order. However, our astute President expelled both of us from the Chamber. Subsequently, I thought over this and found that he was really astute. This is

¹ <<http://ctext.org/mengzi>>

because had the President not driven me out of the Chamber, I would have continued to ask the Chief Executive questions, and if he had refused to answer, I would have asked the President to make a ruling according to the Rules of Procedure on the Chief Executive's affront that I was a triad member and a rogue.

Subsequently, I thought over this again: If the Chief Executive had refused to withdraw his remarks, would the President have expelled him from the Chamber? He was in a difficult position. So, it can be seen that President Jasper TSANG was very clever. I was really in an awkward predicament that day.

Therefore, today, I will only focus on discussing "When a man destitute of benevolence is in a high station, he thereby disseminates his wickedness among all below him.". People who know Chinese should be able to understand the meaning of this remark. Is the behaviour of people in high stations — as in the case of our Chief Executive — spreading wickedness to the public? On that day, I cited poems and prose, talking about ancient texts but he said I was speaking foul language and a triad member, a rouge. Now, "providence is always watching us" and he is taking a lot of flak from the mass media every day. Members can see how he looks like now.

On the Independent Commission Against Corruption (ICAC) opening a file to carry out an investigation, I think this is not in the slightest way useful. May I ask what the use is? The Prevention of Bribery Ordinance does not cover the Chief Executive. The ICAC has received a lot of complaints and of course, it had to open a file to conduct an investigation but in the end, it will end inconclusively.

Apart from the governance of people, democracy is also about the freedom to oppose. Members, there are three important principles under democracy. The first is public opinion politics, which means that the Government is elected by the people and a Government's administration has to be based on the wishes of the great majority of people. This is public opinion politics, so those who govern cannot act contrary to the wishes of the people.

Second, the politics of the rule of law, which can already be found in Hong Kong. All people are equal before the law. In addition, under the politics of the rule of law, the laws regulating the relationships among people are equal but

under the laws regulating the relationships between the Government and the people, the requirements on the Government are higher than those on the people. This is already common knowledge.

The third is the politics of responsibility, meaning that all officials and the administrative chief have to assume responsibility for what they have done. Of course, the so-called responsibility includes legal responsibilities (if they have breached the law) and the most important ones are political responsibility and moral responsibility. Some Under Secretaries of Policy Bureaux are present. What does "accountability" mean? It is to assume political responsibility. They have power, therefore, they have responsibilities, so they have to assume political responsibility.

Donald TSANG should step down immediately. No matter if there will be an investigation or not, and no matter what his replies in the Chief Executive Question Answer Session to be attended by him this afternoon will be, no matter what his earlier written replies to the urgent questions are, no matter how he explains, it would all be useless because he has to assume political responsibility as well as moral responsibility. He has to assume political and moral responsibility and must step down at once. The reason is very simple, that is, "When a man destitute of benevolence is in a high station, he thereby disseminates his wickedness among all below him.", so we must not let him continue to disseminate his wickedness.

Among the many Legislative Council Members — let us first set aside those Members who chide a little but provide a great deal of help — when Mr Paul TSE proposed activating the procedure of impeaching the Chief Executive according to Article 73(9) of the Basic Law, all Members of the so-called pan-democratic camp were shaking heads. That really puzzles me.

When hosting a programme on Monday, "Hulk" and I already said that it would be most preferable if the Civic Party was the one to propose the impeachment motion and I would surely sign up for it. Mr Paul TSE is really clever. Some people said that he proposed the activation of the impeachment process just for the sake of standing out from the rest. However, what then? Some people said that he activated the impeachment process because of the election. So what? The most important thing is whether or not the approach to

dealing with this matter is correct. How can we discredit comments simply because they are made by certain people?

Members, what is the significance of activating the impeachment process? Members all know that there are difficulties. First, a Member has to propose an impeachment motion but the motion would be killed at separate voting. Even if it were passed at separate voting, it will be necessary to establish an investigation committee headed by the Chief Justice of the Court of Final Appeal and carry out an investigation. After a round of investigations, if it is established that he has indeed abused his power, the Council may pass a motion of impeachment to remove him by a two-thirds majority of all its Members. However, we all know that it is impossible that this outcome would occur.

However, what is the political significance of activating the impeachment process? It is to make him assume political and moral responsibility. So long as 15 Members propose a motion jointly, the impeachment process can be activated, and thus history would be made in the Legislative Council after the reunification of Hong Kong. However, it turned out that Members of the pan-democratic camp, including the Civic Party, the Democratic Party and the Labour Party, opposed it, so this is really puzzling. I thought that the support of 15 Members could surely be secured. Worse still, it turned out that the impeachment process was activated by Paul!

However, the number of people is just not enough. Even if I count "Long Hair" in, together with Mr Paul TSE, there are only four people, as Mrs IP has already chickened out. However, I am also grateful to Mr Paul TSE for his cleverness. After he has proposed activating the impeachment process, this is like taking out a monster-revealing mirror to reveal the true face of everyone. Some people always talk about democracy but they talk as if they are invincible, but do not possess any actual capability. One only needs to put down a signature, so how difficult is it? Please explain to me how difficult it is to put down a signature. Therefore, it will not be possible to activate the impeachment process. This legislature is really lame.

In addition, as someone who misguides students and wastes their time by giving lessons on mass communication, I cannot help but say that the recent act of the so-called uncovering scandals (that is, muckraking) by the *Oriental Daily News* ought to be praised highly. The reason is very simple. Back then, in

giving lessons on mass communication, I frequently cited the Watergate incident, in which two reporters of the *Washington Post* exposed a scandal of the century that caused Richard NIXON to step down as a result of a burglary case.

In the wake of the Watergate incident, the departments in universities with the largest numbers of enrolment in the United States were the departments of journalism and many people held these two reporters up as examples for emulation. Such an approach in journalism is called "investigative reporting". In the universities in the United States, this kind of courses is also offered. When I gave lectures in educational institutions in Hong Kong, I also offered the subject of "in-depth reporting", in which investigative reporting (that is, muckraking) or the use of scientific method and material evidence to expose problems, was also taught at the same time. The muck raked up is so vile that one has to hold one's breath but at least, it is necessary to rake away the muck.

One newspaper took the lead in starting this campaign of muckraking and was it successful? Of course, it is. If not, today, this debate on a motion of adjournment would not have been held and it would not have been necessary for the Chief Executive to attend a Chief Executive Question and Answer in the afternoon.

Therefore, we always have to insist on defending the freedom of the press, the freedom of speech, the freedom of information and the freedom of the press from official control. If newspaper A lies, newspaper B would hasten to expose it. There must be a pluralistic and open market in society to allow the free flow of information. It does not matter if the stances are different. The public can judge for themselves the stances of the *Wen Wei Po*, *Ta Kung Pao*, *Oriental Daily News* and *Sing Tao Daily*. Investigative reporting and muckraking reports are intended to expose scandals.

On the exposure of scandals, one prime example can be found in Taiwan. There is this member of the Legislative Yuan called CHIU Yi, who can be regarded as a hero of scandal exposure. The reason CHEN Shui-bian is behind bars is that this member of the Legislative Yuan kept raking up the muck of CHEN Shui-bian. In 2006, when CHEN Shui-bian was still the President, around April or May, a well-known host of a television programme became the first person to expose the allegation by employees of the Sogo Department Store that the wife of CHEN Shui-bian had exchanged some Sogo Department Store

gift vouchers for cash. In May, CHIU Yi even exposed the involvement of CHEN's son-in-law in corruption and abuse of power. After that, this issue escalated and both WU Shu-jen and CHEN Shui-bian were implicated. Subsequently, SHIH Ming-teh organized the mass campaign, "Million Voices against Corruption, President Chen Must Go".

I remember what happened on 10 October 2006 very clearly. That day was the "Double Ten Day" and people planned to besiege the Presidential Office, with a 1.5-million-strong red-shirt army taking to the streets to topple CHEN Shui-bian. After completing his term of office, CHEN Shui-bian was formally charged by the prosecutorial unit, and he is still behind bars now.

Some people say frequently that the politics of democracy in Taiwan is loathsome in nature. Nevertheless, even a President can be thrown into prison. In view of this, recently, some people poked fun of this on the Internet by calling Donald TSANG "TSANG Shui-bian".

Let me talk about reporters. I remember that in the nationalist era, there was a famous reporter called CHENG She-wo, who was on bad terms with WANG Jing-wei, the President of the Executive Yuan of the Nanjing National Government at that time. Since he criticized WANG Jing-wei frequently, so WANG Jing-wei wanted to fix him. He said to WANG Jing-wei, "President WANG, I can be a reporter for life, but can you be the President of the Executive Yuan for life?" The answer from WANG Jing-wei was of course "No".

Yesterday, the Legislative Council passed a motion to establish a select committee according to the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to investigate matters relating to the West Kowloon Reclamation Concept Plan Competition. Mr Albert CHAN and I both voted for the motion. In casting a vote in favour of the motion, it was not our intention to be the bouncer or the vanguard for any candidate in this small-circle election. This is not our intention.

I often imagine such a scene: After the establishment of the select committee frankly speaking, for sure, it will be established only after the end of the Chief Executive Election. Deputy President, if Mr LEUNG Chun-ying is elected the Chief Executive, he would have to come to the Legislative Council to take questions and attend hearings in his official capacity

as the Chief Executive. Moreover, this matter will surely involve the person who would be called the "former Chief Executive" by that time, that is, Donald TSANG. This would be tantamount to digging one's own grave as he would have to come to the Legislative Council again. Thinking about such a scene gives me a real buzz and that was why I voted for the motion. This scene will surely occur. That is great! Only in this way can the last vestige of the dignity of the Legislative Council be upheld.

Some people accused us of abusing the P&P Ordinance. How can this be considered abuse? Members can imagine how exhilarating that scene would be! Suppose Mr LEUNG Chun-ying is elected, does one mean he does not have to attend the hearings of the select committee? Moreover, Members all have an idea how many months later such a scene would occur. This is indeed very interesting! Originally, I have no intention to take part in the Legislative Council elections again but now, I have decided to do so. Otherwise, how can I join such a great occasion?

Deputy President, although there is nothing in dispute in this incident, now some people still say that the truth of this matter is still unclear and that it is necessary to wait for the ICAC to carry out an investigation and release a report. I think there is something very wrong with them. We only mentioned the spring gathering in the urgent questions and Paul has strong views on this. I think this is only normal. After the successive exposure of various incidents, can they still say that the truth is still not clear? This is just normal common sense. Although many people think that Mr Paul TSE is not at all normal, in this matter, he is absolutely normal and it is other people who are extremely abnormal.

Frankly speaking, what else needs to be investigated? What is at stake are such matters as political integrity, political ethics, and so on. Some people say that Mr TSE cannot speak well and clearly, whereas Mrs Regina IP said that she could speak well but had no backing, and Donald TSANG cannot speak well but has backing. For this reason, he pronounced "無限上'綱'" (boundless exaggeration) as "無限上'網'" (unlimited Internet access), saying "接'收'" (receive) for "接'受'" (accept). It is even very common for him to mispronounce "'冗'長" (an extended period of time) as "'匡'長'". Such examples abound. He pronounces "無限上'綱'" as "無限上'網'" and now, even "無限上網" (unlimited internet access) is not allowed.

Members, as the Chief Executive, he must assume political responsibility and moral responsibility because this matter has already brought the Civil Service into disrepute. May I ask the Under Secretary, Miss Adeline WONG, if the matters that were exposed of Donald TSANG and to which he admitted today were to happen to an official of the directorate grade or to you, what the consequences would be? If she can answer this question, she can help defend Donald TSANG. If the rides in yachts and jets and renting of property that Donald TSANG admitted to today were to happen to an official of the directorate grade or a Director of Bureau under the accountability system, including you (*The buzzer sounded*)

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

MR WONG YUK-MAN (in Cantonese): can you tell me what the consequences for him or her would be? If it is not imprisonment, then it would be dismissal, would it not?

DEPUTY PRESIDENT (in Cantonese): Mr WONG, please stop speaking. Sit down.

MR LEUNG KWOK-HUNG (in Cantonese): I recall what happened on that day. During the Question and Answer Session, Donald TSANG lost his temper right after a question was put to him by Mr WONG Yuk-man.

In fact, Mr WONG Yuk-man was quoting the analects of Mencius, who made it very clear that "When the sages had used the vigour of their eyes, they called in to their aid the compass, the square, the level, and the line, to make things square, round, level, and straight: the use of the instruments is inexhaustible. When they had used their power of hearing to the utmost, they called in the pitch-tubes to their aid to determine the five notes — the use of those tubes is inexhaustible. When they had exerted to the utmost the thoughts of their hearts, they called in to their aid a government that could not endure to witness the sufferings of men — and their benevolence overspread the

kingdom²." By these words it means that when our eyesight fails, we should use the compass or the square to make things square or round; and when our hearing fails, we should invent the pitch-tubes to determine the notes. In short, a system must be put in place. When the thoughts of our hearts have been exerted to the utmost, we should call in to our aid a government that cannot endure to witness the sufferings of men. This explained why Mencius said benevolence would then overspread the kingdom. These words should then be followed by Mr WONG Yuk-man's quotation that "To raise a thing high, we must begin from the top of a mound or a hill; to dig to a great depth, we must commence in the low ground of a stream or a marsh. Can he be pronounced wise, who, in the exercise of government, does not proceed according to the ways of the former kings³?" Mencius asked, "Was it wise to do things without rules and not to implement a policy of benevolence?" He then added, "Only the benevolent ought to be in high stations. When a man destitute of benevolence is in a high station, he thereby disseminates his wickedness among all below him⁴." These words are well-founded and soundly based, only that Mr WONG Yuk-man did not have time to quote in such a detailed manner that day because he would have no time to ask his question if his quote was too long. Moreover, the Chief Executive did not understand.

This has something to do with the subject matter today: Why is there a need for so many laws and rules? It is because even a sage will get tired, what can he do when he finds himself exhausted? We cannot rely solely on a sage to run a government; we have to rely on ordinary people, too. Donald TSANG is definitely an ordinary person. He has never described himself as a man of moral integrity. He has merely said that he will "get the job done" and "dig the hole properly". Although he described himself as a statesman when completing the form, he has turned out to be a politician, that is, a careerist who believes that the higher the position the better.

The Chief Executive definitely has no knowledge of all this, and so Mr WONG Yuk-man was expelled, right? Such a simple thing can be found even in secondary school textbooks. After hearing the question raised by the Member, he even asked the Member whether he was a triad member. Could he possibly do that? That was an insult to Mencius rather than the Member.

² <<http://ctext.org/mengzi/li-lou-i/zh?en=on>>

³ <<http://ctext.org/mengzi/li-lou-i/zh?en=on>>

⁴ <<http://ctext.org/mengzi/li-lou-i/zh?en=on>>

Fine. I would like to say a few words about Aristotle. When a Member asked a question concerning Aristotle, the Chief Executive answered that "man is a political animal". As man is an animal and has animal instinct, he must abide by the rules. Now, the problem before us is that the Chief Executive has taken the lead to breach the rules.

What are we discussing here? In my opinion, the invoking of the legislation concerning impeachment is founded. Certainly, we understand that one of the differences might lie in that the setting up of an independent investigation committee comprising a former Chief Justice to chair the investigation will lack public accountability, whereas we will be monitored by all our eyes in invoking the investigation power conferred by the legislation. We must choose between the two.

In fact, the relevant provision is very strange, it reads, "..... the Council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee", which means that it is possible, but not necessarily, to do so.

Should colleagues wish to invoke the P&P Ordinance to conduct an investigation, we may do so first and, when it is considered there is sufficient evidence for impeachment to be taken against the Chief Executive, activate the impeachment mechanism afterward. However, some Members are reluctant to do so.

People seeking to save Donald TSANG are hurting him actually. There is no way we can help it. Today, we have invited him to appear in the Question and Answer Session, but honestly, how can we ask all our questions for he will stay here for only an hour? What can we do in the event that, during the grilling, he again describes a certain Member as a triad member and has him expelled from the Chamber? Hence, the Chief Executive should be impeached for this, because one of his duties is to be "a person of integrity and dedicated to his duties", buddy.

Colleagues, the analects quoted of Mencius by me just now are Chinese. As regards being "a person of integrity", Donald TSANG is definitely not such a person, and so how can he be dedicated to his duties? The paragraph in Article 47 is about what the Chief Executive is supposed to do. In fact, that is

required of him even without such stipulation. Nevertheless, the Chief Executive is required under the next paragraph in Article 47 to declare his assets to the Chief Justice for future comparison. Yet, Donald TSANG is suspected of deferred rewards and being tempted by petty gains as well as other matters which are not known to others. It is pointless for him to declare his assets to the Chief Justice because he will not take up residence in the relevant flat until after his retirement.

Hence, our justifications are already sufficient. What is the point of impeaching the Chief Executive? The point is that we as Legislative Council Members should decide at this point whether or not Chief Executive Donald TSANG should be impeached when we have seen all the evidence — even though the evidence is limited and we have no idea if there is anything else he has done. The success or otherwise of the impeachment is not our responsibility.

If impeachment cannot be proposed unless its chance of success is guaranteed, then it is tantamount to passing a judgment before trial. It is because there is no way for a person proposing impeachment to know for certain that the one being impeached will definitely step down, unless he or she is colluding with the Chief Justice or somehow he or she knows that the Chief Executive will resign half way because he cannot bear the pressure. Hence, I hope colleagues can think long and hard about whether there is any solution better than impeachment at this point in time. Can we possibly invoke the P&P Ordinance to investigate him? The answer is in the negative. Pan-democratic colleagues must understand that, although a joint submission by 15 Members is feasible, it is definitely an impossible task for the Members to invoke the P&P Ordinance in this Council to investigate the Chief Executive. This is a very important difference. The point is not about who is wiser or correct. It is because we know that in this Council, the Chief Executive returned by a small-circle election, the Liaison Office of the Central People's Government, the Hong Kong and Macao Affairs Office and the people behind the scene are fully capable of making use of the separate voting system to "kill" the motion calling for the legislature to be conferred with investigation power, which should originally be passed — we can only opt for a withdrawal and resign to the second best of seeking to launch an investigation, so to speak, to do him justice. This is the crux. If we do not act today, we cannot possibly do so in the future.

Come to think about this. When feelings are running high, opinions are divided and public grievances have reached a boiling point, the Chief Executive can still treat us like a fool and give us just an hour for the Question and Answer Session. Honestly, this is better than nothing. It is pointless for us to invoke the P&P Ordinance to investigate him because of the small-circle election and the efforts made by functional constituencies and the so-called royalist Members to defend him. At a time when the P&P Ordinance is most desperately needed — although the legislature should monitor the executive on behalf of its electors, the executive is elected by a small-circle election to monitor the head of all government officials — it has turned out to be not usable. Hence, we can simply not accomplish anything without exercising our impeachment power. Taking many steps backward, many people will suggest invoking the P&P Ordinance, but have they asked the royalist camp whether or not there is an alliance? In other words, if certain Members choose not to impeach the Chief Executive, will the royalist camp vote in support of invoking the P&P Ordinance to carry out an investigation? If so, we might think about it, even though we have misgivings about it. However, this is not the case, and we are now left with no choice.

In the end, the 15 Members preferring to impeach the Chief Executive might say that it is not worthwhile to impeach him because of insufficient evidence. I think that there is no sense of shame at all. As we have no investigation power and we have been stripped of such power, there is nothing we can do. Even though we clearly know the golden rule of cronyism and that powers corrupt and absolute powers corrupt absolutely, which will then spread like bacteria to all political authorities, including the Judiciary, there is nothing we can do. This is the only option. If we do not act to kick-start the impeachment process, we will lose our chance to exercise the investigation power conferred by the P&P Ordinance. If we do, however, we might get a chance to exercise such power. Honourable Members, as the case now stands, we are left with no alternative. Every one of us must be responsible for our own words. Given that we have unanimously agreed to condemn the Chief Executive, saying that he is so bad, we should do something to set the stage for his stepping down. In fact, should similar incidents occur in overseas countries, the persons concerned should have already quitted, only that Bill CLINTON once insisted not to resign, right? Hence, we cannot help doing so, or else we will really do our own words a disservice.

I repeat, it is not that I do not wish to invoke the P&P Ordinance. Let us think about the enormous hardship and obstacles we encountered whenever it was invoked. In particular, Donald TSANG, the Chief Executive, must not be allowed to get away again, for TUNG Chee-hwa has done so once. We cannot possibly use the relevant legislation; our only option is to exercise our impeachment power to do justice to Hong Kong people. There is nothing we can say should we fail to impeach the Chief Executive, for our responsibility is already fulfilled. If we do not impeach the Chief Executive, we cannot say we have fulfilled our responsibility.

Hence, I would like to appeal again to pan-democratic Members. Think about this carefully. From the perspectives of principle and evidence, we have already concluded that impeachment should commence. Strategically, Members should consider what can be done to subject the Chief Executive to the investigation in such a corrupt Council. We will stand a chance with the signatures of 15 Members. We may opt for a withdrawal and resign to the second best. If we inspect the relevant legislation, we will find that it is feasible not to give the Chief Justice of the Court of Final Appeal a mandate. This is no good. Let us carry out the investigation if it is decided not to exercise independent judicial investigation power or the Judiciary commissioned by the executive to investigate the Chief Executive. It does not matter whether or not the investigation is successful, for the situation today is so corrupt that it has turned into a political struggle interfered by intelligence organs throwing intelligence here and there. Are we still dreaming today? This is a once-in-a-lifetime opportunity to expose how the small-circle election is hiding the worst elements of society. I hope all pan-democratic Members can consider again that this opportunity will vanish in the blink of an eye, and we will be betrayed. Unlike what Members imagine, it is very difficult to invoke the P&P Ordinance or exercise the investigation power conferred on the legislature to probe Donald TSANG. Our responsibility is already fulfilled after we have proposed impeachment, and I will not care about whether we will win or lose. Thank you, Deputy President.

MR LEUNG YIU-CHUNG (in Cantonese): Deputy President, the recent series of muckraking primarily targeted certain candidates. In fact, I think members of the public can understand this because it is common for candidates to attack each other in elections, just that muckraking of such severity has seldom happened in

Hong Kong. But even though these cases are rare in Hong Kong, they are common in other countries. People who pay attention to changes in the political scene will be able to understand all this.

However, the problem is that the series of muckraking has involved not only the candidates, but even our Chief Executive. Some people have found this strange and asked why even the Chief Executive would be involved in these scandals. Many friends have asked this question when I discussed these incidents with them. Many people said that the reason is simple, because this is a small-circle election, and the SAR Government has given people an impression that it has directly or indirectly stated its position in support of a certain candidate. Therefore, the other candidate has to tell the Chief Executive that since the Chief Executive supports the candidate on the opposite side, he must teach the Chief Executive a lesson, so that the Chief Executive will know that he has a problem too. They do not only want to attack the candidate. They also want to attack the supporters around the candidate. This is a view that has been consistently put forward in the community.

Of course, it is difficult for us, being the third party watching the show, to prove whether this is true or not. But disregarding whether this is true or not, now that these scandals have been brought to light, the reason for their disclosure does not matter anymore, for what is important now is whether the scandals exposed are true or false. If they are true, how should they be handled? If they are false, how should they be handled? I think these questions warrant our attention and should be addressed directly.

Certainly, as at today, we still do not know whether the scandals exposed are true or not. It is particularly worth noting that to a very large extent, the Chief Executive has not denied any of them. He has kept on saying openly that he did not see anything wrong with his deeds at first but as time has changed, the public expectation has also changed, and the problem has arisen all because the public now have much a higher degree of awareness than he imagined. He, therefore, said that these problems must be addressed squarely. From an objective point of view, in making these remarks, he has actually admitted indirectly that the scandals exposed are true. Although many members of the media — Even the Chief Executive's good friend, Albert CHENG, has published an article in a newspaper to clarify the rumours about the scandals exposed and refute that the rumours are not true, and even though there are people making

clarifications, even today, the Chief Executive himself has neither admitted nor denied these scandals one by one. I think we need not do any more explaining because in a certain sense, these cases are true to a very large extent. The only question is whether the scandals that have been disclosed are the whole picture of what has happened, or there are a lot of things that we still do not know. What is most regrettable is that, as we can see, the Chief Executive's attitude is like "squeezing toothpaste out of a tube". As the news media discloses a little information day after day, he tells us a little bit more, and as the media further "squeezes" out a bit of information, he then reveals a little more but as at today, he has not yet given a full explanation. This is the problem.

Although he will come to this Council to give an explanation this afternoon, we do not know what he can explain to us during that hour. The question is: Since he, being the Chief Executive, understands that the public have much higher expectations for his moral standard, why has he not clearly given a detailed explanation? Instead, he has only told us two things: One is that a special committee will be set up to study how improvements can be made to the conduct of public officers. But this is all about the future and has nothing to do with what happened before today. Many members of the media have said that this is no more than an attempt to divert attention as he is only telling us that he is concerned about this issue, but he has not addressed squarely his own problem. To me, this is not just as simple as diverting attention but worse still, this has demonstrated an attitude. What attitude is it? He is lenient with himself but strict with others. Why? Because he knows only too well that there is a problem and so, it is necessary to conduct a review, but the review concerns only the future arrangements. Regarding his problem now, how is he going to handle it? He has not given any explanation and it seems he wants to sit on the problem. Certainly, as the Independent Commission Against Corruption has started an investigation into him, he was finally forced to say helplessly that he would definitely co-operate with the investigation, but he only said that he would co-operate. To date, he has not told us what mistakes he thinks he himself has committed, and if he has really committed mistakes, how should he handle the problem and how will he face it? He has not told us anything so far. What he has done makes us question what responsibility the Chief Executive thinks he himself should bear. We have not yet drawn a conclusion and this is all the more pathetic. Why do we consider this pathetic? Now that the entire community is concerned about this problem, and we all think that this problem is very serious and yet, he has still taken an evasive attitude, rather than facing the

question of how he should give an explanation. As of today, he has given no explanation, and this is what we consider most regrettable.

As a number of colleagues have said earlier, what we have to do may not only be as simple as invoking the Legislative Council (Powers and Privileges) Ordinance to conduct an investigation that we discussed yesterday. Rather, we may need to impeach the Chief Executive. What is the significance of impeachment? The significance of impeachment is that it makes the Chief Executive understand how he should give a response and learn a lesson if he has done something that even he himself finds it difficult to explain to the public. We, being Members of the Legislative Council, should not only conduct an investigation. It is all the more necessary for us to demand the Government, especially the Chief Executive, to face the problem, which is most important. Impeachment is intended to make him face the problem. Otherwise, it would be impossible to make him face the public and give an explanation. For this reason, I support impeachment.

However, when I learnt that a Member has been collecting signatures in support of the impeachment procedure It is only from the media that I learnt of the number of colleagues who have promised to put down their signatures. I had not received this message before and I had not been aware of it and so, I have not signed in support of it. But I am glad to sign and call for impeachment. To members of the public, I think this can give them a positive response and explanation.

In this adjournment debate today, apart from the problem of corruption, we are also discussing probity, as well as whether the election can be conducted fairly and impartially. As I said earlier, the muckraking originally targeted only the candidates but subsequently, even the supporters of the candidates were involved. But on the other hand, while the SAR Government has stressed that the principles of fairness and impartiality must be resolutely upheld in the election, the impression that the Government has given to the people is not quite the same. Concerning LEUNG Chun-ying's involvement in the West Kowloon Cultural District incident, the Government disclosed the information suddenly, although the Government explained that this was not true and that it only provided the information in response to media enquiries. But this is just the Government's side of the story. No one knows whether it is true or not. But such sudden actions taken by the Government can really give people a wrong

impression. Moreover, regarding the provision of information, the Government said at one time that the information could not be revealed but after some "squeezing", it then made public the documents one by one, showing that the Government is basically self-contradictory. What is the reason for this?

Since the information is said to be so important and if the leakage of classified information will jeopardize the international reputation of Hong Kong, why has it made public those documents over and over again? So, what has happened really makes people question whether or not the Government is biased. Has the Government truly taken an entirely fair, impartial and independent attitude towards this election, or has it actually been a bit biased? Therefore, this incident has led to many problems involving whether the Government's actions match its words. Regarding the principles highlighted by the Government, have they truly been upheld to the full in practice? This is a problem.

Therefore, I think the best thing about this debate today is that it enables us to tell the public once again that if the Government is committed to upholding clean government and impartiality, it must not say one thing but do another, and what it does must meet even a higher standard than what it says. Otherwise, hardly can the public be convinced and consider it acceptable.

To date, Donald TSANG has not properly given a detailed explanation; nor has he responded to the public as to how he will face some of his own deeds. He has not made a conclusion so far, and this makes people think that he is pathetic and shameless.

Through this debate today we have to tell Donald TSANG once again that he really must give the public an explanation on these things that he has done. He must cease to act in a way like "squeezing toothpaste out of a tube" and he must cease to be evasive. He should assume the responsibility. Do not think that the setting up of a review committee is tantamount to giving an explanation; this is totally wrong. In the past when controversies happened, we would often set up a select committee immediately to conduct an investigation — not a review — it is regrettable that even an investigation is out of the question now. Is this not grossly pathetic?

In such a short period of just one hour this afternoon, not every Member may have a chance to speak and ask a question. However, the Chief Executive should still give a detailed explanation to the public and tell us clearly how he will face these allegations of corruption and violation of probity. I hope that he can clearly tell us how he will assume responsibility.

Deputy President, I so submit.

DR MARGARET NG (in Cantonese): Deputy President, in fact colleagues from the Civic Party and pan-democratic Members have long stated that without the implementation of universal suffrage, the coterie election will certainly lead to rotten and corrupted government. We can understand the logic of such statement from the happenings recently. The most important implication of the series of incidents exposed lately is that they have revealed the myriad of interests involved behind the candidates, regardless of to which camp they belong, running in the Chief Executive Election. Apparently, two groups of vested interests are in the middle of a beastly slaughter and fight to protect their respective interests behind the scene. For this reason, at this moment we have to re-emphasize a question: How can we ensure the integrity of the Chief Executive Election, and above all, the integrity of the Chief Executive in his official capacity for the purpose of maintaining public confidence? I would say this question is most timely. I very much agree with the remark made by Mrs Regina IP just now — every cloud has a silver lining, hence this is the time we conducted a review.

I very much agree with the views presented by Mrs Regina IP in her speech earlier. Though I was not in the Chamber just now, I did listen to her speech carefully. I particularly share a point reiterated by her at this stage: The existing integrity requirements applicable to public servants under the civil service system have been in place for several decades, and the same standards have been maintained after the reunification. Notwithstanding the harsh criticisms on the incumbent Chief Executive as shown in the headline stories of newspapers, there are still Hong Kong people who consider a 6 000-square-foot home and the Chief Executive's preparation for his post-retirement life with his current salary acceptable. Given the different voices in society, at this stage we should all the more emphasize that civil servants must meet stringent requirements on integrity. We must insist on adhering to this principle, or else social mores will be eroded.

Deputy President, earlier many Members mentioned the check on the Chief Executive under the Prevention of Bribery Ordinance (POBO). I believe the Members present today may still remember that we called for amendment of the POBO since 1999, but it was not until 2007 that the Government consented to amending the Ordinance. Nonetheless, quite many defects can still be found in the Prevention of Bribery (Amendment) Ordinance 2007. Mr Jasper TSANG was the chairman of the relevant bills committee at that time. Members can look up the records of that time, and today I have taken the trouble to dig out the minutes of the meetings back then. At that time, we already pointed out clearly that the Chief Executive should as well be bound with respect to the acceptance of advantages and behaviour of that kind stipulated in section 3. Besides, the provision regarding the offer of advantages to the Chief Executive under section 8 must be amended, so that the Chief Executive would be bound to the same extent as certain public servants. I think I need not dwell on the details here, as many colleagues have already given detailed explanation on this earlier on.

Back then the Government rejected our proposals on some very technical grounds, but there were two main reasons: Firstly, the Chief Executive should not be bound in certain ways due to his unique constitutional position; secondly, Article 47 of the Basic Law clearly stipulates that the Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties — this was considered a very stringent requirement that should be adequate to serve the purpose. Today, in the light of the facts before us, had amendments been made to the Ordinance based on our proposals, or had the Government listened to the voices of pan-democratic Members, we could have some rules to follow today. Moreover, at that time, we pointed out clearly that the requirements should be stated clearly in law, so that everyone are aware of the rules and realize that the Chief Executive should meet stringent requirements, so it is inappropriate to offer him gifts and advantages. Had that been done, the recent incidents might not have even happened.

Therefore, in this Council, the pan-democratic Members do not mean to object for the sake of opposing everything proposed by the Government. Many proposals put forth by us are in fact crucial to the systems of Hong Kong. In respect of creating a special standing for the Chief Executive, I believe the more we do so, the more likely that things will run out of control. We should unwaveringly adhere to the principle that everyone is equal before the law. I hope the Government will expeditiously amend the POBO based on the proposals

put forth by us in 2008, so that this series of scandals can be turned into something meaningful in some way, namely, they can at least bring about some improvements in the systems of Hong Kong.

"Etiquette is not meant for the common people, the scholar-officials are immune from penalty" is another thing frequently mentioned by Members today, of which "the scholar-officials are immune from penalty" was widely criticized by Members. I have some new interpretations for these two ancient Chinese proverbs. In my view, it is inadequate to regulate the behaviour of the "scholar-officials" — people in public offices — merely by means of a penalty system which constantly focuses on whether one is compliant with the provisions, which means one is safe if he has done nothing non-compliant with the provisions. In that sense, one will always attempt to find loopholes in law, thinking that he is allowed to do anything as long as no non-compliant behaviour is involved. It is thus inadequate to impose only these rules on public servants. I have a new interpretation of "etiquette is not meant for the common people". "Etiquette" refers to ethics and principles, which are not meant for the common people and cannot be regulated by a penalty system, but they are something that public servants must comply with.

In the developments to date, the Chief Executive repeatedly said in indignation that they need to be whiter than white. In other words, he thinks there is nothing wrong with him, only that the public is just too demanding. In addition, he remarked that social expectations and demands have changed, I wonder what have changed actually? Mr LEUNG Kwok-hung is not in the Chamber now, but Members should have seen him mocking at me in the Council for my citing the Nolan Principles — the seven principles that public servants should abide by — so frequently. The Principles were established in 1994 when the British Parliament and Cabinet were troubled by scandals, and a judge was thus appointed to form an investigation committee and the seven principles were established, which is very similar to our case now.

What are the seven principles? Given that in fact Members know the principles very well, so here I just name them by topics, namely, Selflessness, Integrity, Objectivity, Accountability, Openness, Honesty and Leadership. What does "selflessness" mean? It means public servants should put public interest before everything else even if their own interests may be harmed, since

they would rather sacrifice their own interests than allowing public interest to be harmed, not even slightly.

"Integrity" refers to a clean and uncorrupted personality, hence public servants are explicitly demanded not to accept advantages offered by others in their private social lives, so as to avoid being suspected of making decisions under the influence of those they are obliged to. It is inadequate to merely make vows of one's integrity, one shall avoid behaviour that may possibly lead to these situations.

"Honesty" refers to candidness and openness, that means any conflict of interests between personal interests and the performance of public duties are not allowed. Any potential conflict of interests should be resolved in advance. I believe I need not give detailed explanations on the rest of the principles. Had the Chief Executive seriously abided by the three principles mentioned above, all these embarrassing incidents might not have happened. Hence, these should no longer be described as new requirements or excessively high standards. They are old and existing principles widely adopted internationally, and I hope all candidates running in the Chief Executive Election and the incumbent Chief Executive can keep these principles in mind.

(THE PRESIDENT resumed the Chair)

Today, a number of Members have also mentioned the impeachment proceedings under Article 73(9) of the Basic Law. I would like to respond to the remarks made by Mr WONG Yuk-man. Mr WONG used the spurring tactics that he is always so good at to query the Civic Party's decision of not subscribing to the motion on impeachment. In fact, any power conferred on us under the constitution carries at the same time some obligations. How can we not discharge these obligations when necessary? Why should we be afraid of exercising this power? That said, in exercising any power, we should pay attention to the implication of the provisions concerned.

The Committee on Rules of Procedure has discussed the impeachment proceedings for years. If we are afraid of activating the impeachment proceedings, we should not have proposed a discussion on such topic. However,

what are these proceedings meant to be? They are in fact the last resort that can be employed to resolve constitutional crises in critical situations, for Article 73(9) clearly stipulates in the event that "the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign", then the impeachment proceedings should be activated.

Can Members imagine how embarrassing it will be if the Chief Executive refuses to resign even after a serious breach of law or dereliction of duty? How is the SAR Government supposed to continue with its operation? How can the public maintain confidence in the Government? If the Chief Executive refuses to resign under this circumstance, the constitution confers on us the power and obligation to cope with the matter so as to restore things to normality and return another Chief Executive whom Hong Kong people can trust. Therefore, this is not a power that should be exercised casually. We should not activate the impeachment proceedings whenever any problem related to the Chief Executive arises; we should handle the matter prudently. We need not be afraid of exercising the power of impeachment, yet we should not propose the invocation of such power casually.

What are the preconditions for exercising the power of impeachment? My personal view is that the general public must stand by us and agree that we are doing the right thing. It is the time for us to exercise such power and properly perform our constitutional obligation when the facts have been fully verified and an extensive consensus has been reached among the public. Today, we still have a long journey to go, and we must continue with that journey. In particular, we must clarify the facts so as to let the public know that the matter is undoubtedly real, not just a piece of hearsay reported in the newspapers and not a political tool. Moreover, we are not overreacting to something non-existent. We must convince the public that we are obliged to take this step, without which our actions will not be able to achieve any effect. I have no idea when we will take that step, but certainly we will continue to follow that up.

I would like to give an account of Members' views on the impeachment proceedings during the discussion on Article 73(9) by the Committee on Rules of Procedure, and the mechanism of activating such proceedings. Our initial idea is that we should vote on an impeachment motion that has been initiated jointly by 15 Members in order to decide whether to take follow-up actions or not. Then we will review the allegations concerned and appoint the Chief Justice of

the Court of Final Appeal to form an independent investigation committee, and we will then further vote on whether such a committee should be formed.

However, the Committee on Rules of Procedure, having reconsidered the issue, opined that splitting up the proceedings into two parts as mentioned above would give rise to big problems. Detailed and precise allegations should have been prepared when an impeachment motion is initiated jointly by 15 Members. To facilitate the independent investigation committee formed by the Chief Justice to comprehend the subject of the investigation, the allegations should be supported by concrete details instead of merely a general accusation about transfer of benefits. At that stage, we only need to take a vote, once and for all, to decide whether to appoint the Chief Justice to form an independent investigation committee. These matters have to go through many stages indeed.

Moreover, during our discussion, we also expressed the hope that any Chief Executive with wisdom and a bit of dignity and self-respect left would realize that under such circumstances, he should resign instead of forcing the Legislative Council to make that move. If he refuses to resign even at that stage, the impeachment proceedings will be expedited. President, the Civic Party is absolutely not afraid of exercising the power of impeachment. However, we must handle the matter as prudent as those who exercise enormous powers, so that the public will see that this is a right move for the embodiment of public consensus. In that event, we will make the move.

Thank you, President.

MS STARRY LEE (in Cantonese): President, with a heavy heart the Chief Executive wrote a letter to members of the Civil Service the night before last on the Internet. It said that after 45 years of public service, he never expected that he would have to address questions about his integrity, a core value that he cherished, and he found the criticism of him having been stringent with the Civil Service but lenient to himself especially heartrending. He said in his letter that he expected no less of himself when it came to integrity, and in fact he expected more of himself and believed those who had worked with him over the years would come forth and testify for him.

What are the reactions? Everybody knows that a large number of civil servants responded to his appeal and stated their views by making phone calls into radio programmes. These views are one-sided. A lot of front-line civil servants said they have been acting in a most cautious manner and reminding themselves to avoid anything that may give rise to suspicions. Rightly as a front-line civil servant, a health inspector, pointed out, he dared not take a glass of beer offered by an owner of restaurant when he was inspecting the restaurant. For that reason, he found that it was difficult for him to accept that Donald TSANG, who is the head of the SAR and being a public officer for decades, to receive hospitality offered by wealthy tycoons without doing anything to avoid causing suspicions. Another member of the Civil Service pointed out that if Donald TSANG were just a general grade civil servant, he should have been penalized, dismissed or even sentenced to jail after receiving the hospitality offered by some wealthy magnates. Therefore, some members of the Civil Service found that all the conduct of Donald TSANG unacceptable at all, and some even felt that what Donald TSANG had brought the Civil Service into disrepute.

We note that some civil service bodies were dissatisfied about that, and the Hong Kong Federation of Civil Service Unions in particular criticized the behaviour of the Chief Executive as they considered that what he had done had damaged the image of the more than tens of thousands of members of the Civil Service and cast doubts on their integrity; and his behaviour has also enraged them as they consider it a significant damage to the Civil Service. The former president of the Hong Kong Senior Government Officers Association also pointed out that the case apparently involved a conflict of interests, thus the Chief Executive should offer further explanations.

President, I fully understand and appreciate the dissatisfaction and rage of a large number of civil servants, however, I am puzzled by these strong reactions. Just as Chief Executive Donald TSANG said, with 45 years of public service under his belt, he should know very well how to avoid causing suspicions, and his view should be largely identical to that of other members of the Civil Service. But why is there such a huge difference in his judgment concerning the acceptance of hospitality offered by wealthy magnates compared with that of other members of the Civil Service? Why does the Chief Executive consider all along that there is no problem for him to accept such hospitality, and therefore he has not apologized for that? His letter has been issued for more than one day

and there is a surge of public views one after another. Besides hearing that he was heavy-hearted and had learnt a hard lesson, the public cannot feel so far any deep self-reflection and remorse from the Chief Executive. I consider that the Chief Executive owes the public an apology for the big gap between the judgment he made on this series of incidents and that of the public.

Secondly, the public learn only from the incident this time around that as the head of the Civil Service, the rules that the Chief Executive has to comply with are even less than the civil service, because the Chief Executive is not subject to the relevant restrictions, and he needs not make declaration for receipt of gifts in his non-civil service status. Moreover, he is also not subject to the provisions of the Prevention of Bribery Ordinance under which not a single public servant is allowed to accept any advantage without special permission.

Just as the case of the Chief Executive not being subject to the code restricting civil servants and accountability officials, this has given people a feeling of *quod licet Iovi, non licet bovi*. This system, which resembles a realm of "non-regulation", can no longer meet the expectations of the general public. As to the Chief Executive's announcement on the setting up of the Independent Review Committee on the Prevention and Handling of Potential Conflicts of Interests to review the existing regulatory frameworks and procedures for the prevention and handling of potential conflicts of interests concerning the Chief Executive, Non-Official Members of the Executive Council, and Politically-Appointed Officials, with a view to formulating a new set of regulatory frameworks and procedures for the prevention and handling of potential conflicts of interests, we welcome such a proposal and we consider that a mechanism should be put in place as soon as practicable to regulate the acceptance of advantage by the Chief Executive and relevant officials.

Thirdly, the hospitality incident gives the public an impression that the Chief Executive has established a closely-knit network with many tycoons in Hong Kong, thus making one worry that there are countless ties among them and undermining the "whiter than white" stature of the Chief Executive.

The Chief Executive told a different story about his friendship with these tycoons and magnates. The Chief Executive said that he needed to get a good grasp of all aspects of the situation in Hong Kong, therefore he needed to maintain constant contact with all walks of life. Nevertheless, to keep in contact

and to have a good grasp of views of all sectors is one thing, whether or not there is a need to board the luxurious yachts or even private jets, or if he could choose a more appropriate venue to do it is utterly another story. I believe nobody would condemn the Chief Executive for inviting people from different sectors (including tycoons) to banquets in Government House, and nobody will criticize him for taking part in some public activities for reaching out to different social strata (including tycoons) and gauging their views. However, as I said just now, the public strongly questioned why he should accept the invitation of boarding a private jet or a luxurious yacht.

The Chief Executive has admitted the other day that he understood the expectation of the public was somewhat different from his. After this incident, he has learnt a hard lesson and he would be more cautious in future when similar issues arise, and he would be more vigilant in order to avoid making others associate that with collusion between the Government and business, as that would discredit the governance of the Government.

Besides the Chief Executive, I believe each and every public servant, including accountability officials and other members of the public service will learn a lesson from a fall into the pit because that will be a gain in their wit, and they should be more sensitive and avoid giving people from different sectors a feeling that they have a too close relationship with people of a certain class.

Lastly, with regard to the many allegations of the media recently, including rides on tycoons' yachts and private jets, and the "Government House" in Shenzhen, the responses of the Chief Executive so far are not so comprehensive and the public still have doubts about all these incidents. To date, the public, media and the Civil Service have yet to show satisfaction with and acceptance of his explanations.

A one-hour Question and Answer Session will be held this afternoon, but I believe it will not be sufficient for him to give a detail account of all the things. I hereby urge the Chief Executive and the Chief Executive's Office to not think that this one-hour session will put an end to the matter. Additional information on other questions raised by the public, after the Chief Executive's Question and Answer Session, should be provided through various channels in order to dispel the public misgivings. As long as the mystery remains unsolved, it will be

difficult to see any improvement in the rating of the Chief Executive's integrity and the clean image of the Government.

The credibility, conduct and integrity of political figures are considered by the public the most important qualities and they are concerned about them greatly. Politicians should have the responsibility of exercising self-discipline and avoiding any suspicious circumstances. This series of incidents has already caused widespread discussion and concern in society, reminding all public servants to impose more stringent self-discipline on both private and public occasions and to exercise the utmost caution in order to meet the expectations of the public.

President, I so submit.

MS MIRIAM LAU (in Cantonese): President, the community will demand a higher standard of integrity of public servants and politicians, let alone the Chief Executive who is the leader of the SAR. Needless to say, we will certainly require that his integrity and character reach the highest standard because he represents the SAR, the Government and the general public. If he is an honest and law-abiding person of high integrity, the core values of Hong Kong such as honesty, integrity and the rule of law can be reinforced. On the contrary, Hong Kong will inevitably give people an impression that it is a place of evil if he does not have such qualities or fails to meet the standard.

Barring all unexpected situations, the next Chief Executive will be elected next month this year, a year for electing a new Chief Executive. The incumbent Chief Executive will soon retire from office and be succeeded by his successor. At this critical moment, many so-called black materials in relation to acceptance of advantages by our incumbent Chief Executive are disclosed by the media every day. Even now, such black materials are still revealed by the media, giving rise to public concern about whether there is a great retrogression in probity in Hong Kong as well as the Chief Executive's personal integrity and conduct.

According to Article 47 of the Basic Law, the Chief Executive must be a person of integrity, dedicated to his or her duties. Now, after a series of incidents relating to the Chief Executive disclosed by the media, does this indicate that the Chief Executive has violated any rules or accepted any

advantages or bribes? The information available is not enough for us to make any judgment in this regard. Anyhow, the exposure of these incidents shows that the Chief Executive has a close relationship with some rich tycoons. As a result, the public will inevitably cast doubts on his integrity and probity, apart from queries concerning possible transfer of benefits or deferred rewards. Furthermore, it is difficult for the Government to convince the public. Just tune in to radio phone-in programmes, browse websites or chitchat with people on visits to the local communities in order to listen to their views, we may understand that they feel infuriated and helpless. With such mixed feelings, their confidence in the Government has also been shaken.

According to the latest public opinion polls conducted by The Chinese University of Hong Kong from 21 to 23 February, the Chief Executive's popularity rating has hit a record low and the people's trust in the Government has also fallen sharply to the bottom. Only 10.8% of the respondents are satisfied with the Government's performance and the level of confidence in the Government has plunged to less than 20%, only 19%. Thus it can be seen that the integrity of the Chief Executive will affect the reputation of the Government as a whole or even the entire SAR. Hence, we feel pained and do not want to see that the Chief Executive has made any mistakes and hope that an investigation can be conducted expeditiously to uncover the truth.

However, we also believe justice lies in the hearts of the people and true gold fears no fire. The public will be able to make judgment on their own if all information and the whole truth are disclosed. They will then know which are black materials for smearing purposes during the Chief Executive Election and which are evidence to show who has taken advantage of his position to seek private gains and engaged in transfer of benefits. To really see to it that justice is done, we need a fair and just system which can effectively regulate the Chief Executive.

Today, there will be a Chief Executive's Question and Answer Session in this Council which will last for one hour. I have expressed my dissatisfaction about this because the Chief Executive's Question and Answer Session in the past would at least last for one and a half hour. How could the Chief Executive, in such a raging tide of public sentiments, shorten the duration of the Session to one hour of his own accord? I believe Members' questions cannot be fully answered even in one and a half hour. Anyhow, I have urged the Chief Executive to stay

here a bit longer by all means. I also hope that the President will convey this message to him on our behalf when he is in this Council so that he will stay here a bit longer to answer Members' question. It is because we can judge whether there are any irregularities, corruption and bribery only when we have got more information about these incidents. Before such information is available, we cannot make any decision in respect of whether the Legislative Council should follow up the matter.

Regarding the regulation of the Chief Executive in respect of declaration of interests, the issue was dealt with when amendments were made to the Prevention of Bribery Ordinance (POBO) in 2008. The amendments then made improvement to the legislation. Under section 4 of the POBO, any person — including the Chief Executive — who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as a reward for performing or abstaining from performing any act (in his capacity as the Chief Executive, it means a reward for handling or abstaining from handling any business) shall be guilty of an offence. However, the Chief Executive is governed by this ordinance only in respect of bribery, hospitality or entertainment to the Chief Executive is excluded.

The Chief Executive is certainly not bound by the Civil Service Code or Code for Principal Officials under the Accountability System. He is only governed by section 4 of the POBO. Section 3 of the POBO, which stipulates that a public servant is required to seek permission of the Chief Executive for accepting any advantage or entertainment, is not applicable to the Chief Executive. Relatively speaking, provisions regulating acceptance of entertainment by civil servants are much stricter. For instance, they should refuse or not accept any over generous, lavish hospitality. The relevant code also stipulates that a civil servant is permitted to accept gifts on an occasion such as the civil servant's birthday, wedding, wedding anniversary or retirement so long as the value of the gift does not exceed \$3,000 from any close personal friends or \$1,500 from other persons. On occasions other than wedding or celebration of childbirth and so on, the value of the gift should not exceed \$500 from close personal friends and \$250 from other persons.

It is also stipulated that the gift acceptors should not have any official dealings with relevant parties' departments or companies. The relevant provisions are written in such great detail that even the maximum value of each

item of gifts has been set out. Hence, the public have queried whether the higher the position, the looser the regulation in respect of acceptance of advantages on the civil servants by the SAR and *vice versa*. Such regulation makes people feel resentful. Doubts are also cast on the regulation of the Chief Executive, who has totally gone unchecked.

Concerning the incidents involving the Chief Executive who received yacht and private jet rides and even an apartment rental from some rich tycoons with whom he has a close relationship, has he contravened section 4 of the POBO? Although we cannot draw any conclusion now, we are happy that an investigation into these incidents by the Independent Commission Against Corruption (ICAC) has commenced.

The role of the ICAC is very important. The well-known achievement of the ICAC is "its courage in launching a fight against a big tiger" in those days which won the trust of Hong Kong people. Therefore, once the ICAC has commenced its investigation into whether the Chief Executive has contravened the POBO, we hope that it will handle the matter impartially and will not dilly-dally simply because the subject of investigation is its boss or person-in-charge. I hope the ICAC will not fail Hong Kong people who have all along place expectation, trust and support in it.

We hope that the ICAC can, in the spirit of "Fight corruption, arrest Godber", be brave enough to resist pressures from the outside and conduct a thorough investigation to the end. If corruption has really taken place or bribery is involved, it should adhere to the principle that "for any crime committed, both the king and the people shall be punished alike without discrimination". Moreover, as we are moving towards a democratic system under which all are equal before the law, no privileged class who gets multiple benefits will be allowed.

Improvement can be made to the relevant system in the light of the experience and lesson we have learnt this time around. A few days ago, the Chief Executive announced that an Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests to be chaired by the former Chief Justice of the Court of Final Appeal would be set up to review the existing regulatory frameworks and procedures for the prevention of potential conflicts of interests (including the arrangements for declaration of

investments/interests and acceptance of advantage/entertainment/hospitality) concerning the Chief Executive, Non-Official Members of the Executive Council and Officials under the Political Appointment System and make recommendations on improvement measures. I support the establishment of this committee. However, I understand that the Government may try to divert our attention by means of this committee and I will not rule out this possibility. Our focus will not be diverted and we will not divert our attention. Therefore, while the committee will be set up as proposed, our focus remains trained on the Chief Executive who will be required to give explanations. We want to get more information in relation to him in his capacity as Chief Executive in a relevant period of time. This is because only when we have got the relevant information can we reach a judgment and decide the way forward.

Certainly we have pinned high hopes on this committee. Apart from the areas of review I mentioned earlier, we also hope that it will review the relevant provisions under the POBO and advise whether amendments are required in order to tighten up the regulation on the Chief Executive. Therefore, we support the setting up of the committee and hope that it can accomplish its task expeditiously so that the Legislative Council will have the opportunity to see and discuss its recommendations.

President, after the occurrence of a series of incidents such as the ICAC investigation, impeachment proceedings to be initiated by colleagues, the Question and Answer Session to be attended by the Chief Executive today and a committee to be formed for conducting a review, I think, in the final analysis, one should have the wisdom to know oneself, which is most crucial. A leader at the top echelon of the Government will be spurned away by the people or even earn himself infamy if he does not cherish his feathers or set an example. I hope that the next Chief Executive will attach weight to his integrity and never take a trust-to-luck attitude, thinking that the people will be kept in the dark or he can muddle through on false pretences even though what he has done is revealed. I believe such a situation will not be allowed in present-day Hong Kong.

Thank you, President.

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

MISS TANYA CHAN (in Cantonese): President, 1971 was the year of my birth and I will turn 41 in September. I believe many people will still remember what happened in that year. Although I was still a baby or might even still be inside my mother's womb back then, I believe those who are older than me will not forget what happened back in 1971 or the years before that. In 1971, the Police Anti-Corruption Branch launched an investigation into the property and wealth of a senior police officer, GODBER, thus started the prelude to the sensational GODBER case which created a great stir in the city. In order to evade the investigation, the corrupt officer took an early retirement and fled back to the United Kingdom, thus ignited public discontent. The famous "anti-corruption, catch GODBER" demonstration also took place in that year. I believe that even Donald TSANG, our current Chief Executive, who was then an Executive Officer, would not be as amnesiac as to have forgotten about this case.

Several weeks ago, the media were still on stakeout on York Road, Kowloon Tong, but their focus was soon radically diverted to Macao or Shenzhen. A new tourist attraction has suddenly emerged in Shenzhen and I believe everyone is aware that I am referring to the East Pacific Garden. Some Internet users changed the old slogan of "anti-corruption, catch GODBER" into "anti-corruption, catch Bow-tie". It appears to be very funny, but to the people of Hong Kong, this is actually very sad. President, I would also like to quote a puzzling statement of Mr Henry TANG: "The core of core values is to maintain core values". Though I do not know what he was talking about, I well remember what core values are. Dr Margaret NG talked about some conduct and principles which are crucial to government officials in her earlier speech. We, Members of the Legislative Council, cannot say that we are government officials, but at least we are serving the people and must set certain requirements for ourselves, which I dare not say are comparable to that of civil servants, but at least, we should not be too lenient with ourselves. I think what the whole city is most angry about is not only because the Chief Executive, our highest leader, has done something which disgraced Hong Kong people. I really have to use the word "perverted" to describe the fact that he could write such a letter to civil servants. It will be strange if people are not indignant after reading the letter. What did he say? He said he has served as a civil servant for 45 years and would never have thought that he would have to account for his "integrity", his most cherished core value.

However, he has not explained anything in the whole letter. President, what has he accounted for? He only said that a review committee has been set up with former Chief Justice Andrew LI as the Chairman. What else did he say? He called on people to believe in him because he said his heart also aches. Oh buddy, his heart aches he is distressed. The word he used is "distressed". If this is "distressed", then no one else could use the word again after he has used it. How could it be used? He said he had a clear conscience when he accounted for his actions last time. President, no one else could use the term "clear conscience" again for he has virtually re-defined the two words. To us, the people, what is meant by clear conscience? I do not know whether it is because he is black-hearted, we have a conscience, or that he does not have a conscience. What kind of conscience was he referring to when he talked about "clear conscience"? To have written such a letter, colleagues in my firm are very I cannot say creative, for they also borrowed the idea from others, but they made some changes on the basis of his letter. I would like to take this opportunity to read out the letter addressed to Mr Donald TSANG, the Chief Executive of the Hong Kong Special Administrative Region: "It is with a heavy heart that I read this letter. Your Excellency has 45 years of public service under your belt, and I have never thought that your most cherished core value is not integrity but rather 'there is no harm in taking advantages'. I understand that recent reports on your Excellency's overseas trips and retirement plans have proved that your integrity has completely bankrupt. What makes me most distressed or even nauseous — that is feeling nauseous after reading his letter — is, just as some people have commented, though you are "strict with others but lenient with yourself", you are still shameless and have resorted to every stroke of sophistry. I hereby solemnly declare to your Excellency that as regards the issue of integrity, I will not let go easily for I understand that integrity is the cornerstone of good governance. In fact, I have lost all confidence in your Excellency's integrity. Countless of people who have suffered grievously under your governance over the past seven years can bear witness to this.

"I believe you are also aware that various media have recently reported case after case of your mess, the law-enforcement department has launched a detailed investigation, and some Members of the Legislative Council have started the procedures on your impeachment. I trust that even without attaching the relevant materials for your information, your Excellency would look out for yourself. In order to fulfill our responsibilities of monitoring the Government, Members of the Legislative Council and I will attend the Chief Executive's

special Question and Answer Session today and ask you the most pointed questions mercilessly. You said in your letter that in order to uphold the spirit of high transparency, you will accept our invitation to attend the special Question and Answer Session in the Legislative Council today to answer Members' questions honestly and try your best to allay public concerns. The public has been most touched. However, unfortunately, your great grace can only spare us an hour, and deducting 15 minutes for your statement on the so-called core values and integrity which have been repeated many times, only nine or 10 out of us 60 Members may be able to ask questions. Perhaps, it will be faster if we try very hard to call the radio stations, like other members of the public, and ask the questions direct. Well, just forget it. I very much hope that your Excellency can really answer our questions and that of the public honestly so as to allay their concerns. While it is definitely greedy to build an unauthorized underground cellar, the acts of accepting the hospitality of tycoons, taking rides in private yachts but paying the fares charged at the Macao Ferry Terminal; travelling on private jets but paying the fares of the economy class; renting the luxurious flat of a Shenzhen tycoon at cheap rates, the total rents of which are somewhat equivalent to the renovation costs, are not simply acts of greed but suspected cases of transfer of benefits when tycoons in town offer hospitality to the Chief Executive in return for favours. What made it most offensive is that your Excellency had acted as if you were very righteous in face of such accusations. It was only when the media was prepared to report the news of the free renovation that you suddenly 'owned up' to your Shenzhen residence in a crude manner and with no remorse. You said the experience has taught you a valuable lesson, but I think that this is the most ironical aspect of the small-circle Chief Executive election. While the leader of a place is not accountable to the people, he will only see real estate developers and consortia which have votes, for they are the ones who can help him to ascend to the throne of the Chief Executive. It is foreseeable that the policy of such candidates will be tilted towards their benefactors once they are elected.

"Many people have recently mentioned that the interest groups behind the Chief Executive candidates have ganged up. It can be imagined that such situations will continue as long as there is no universal suffrage. It turns out that what your Excellency meant by "play a big game" back then is to board private yachts and private jets here and there, and to go and reside in Shenzhen. It is really an eye-opener to watch your Excellency stress how you accounted for your so-called core values and integrity with a heavy heart. You thought that it was a

big joke when netizens called you the CHEN Shui-bian or the Number One Covetous Official of Hong Kong and thought others were trying to smear you. However, I would like to tell everyone that as a Hong Kong citizen, I am really very angry and hope that you can give us an account of everything as soon as possible. Yours Sincerely, Tanya CHAN, Legislative Council Member."

As a matter of fact, I attended a course on corruption several years ago. When people heard the name of the course, they asked whether I was trying to learn how to be corrupted? I said no and told them that it was to learn about anti-corruption. Back then, the course was attended by many foreigners, and it certainly included friends from the Mainland and African countries who had specifically come here to learn about the anti-corruption system of Hong Kong. That was because Hong Kong had done a very successful job within the short span of 40 years.

It is actually very important to be honest and clean. I do not know whether the Chief Executive still remembers or not that he pledged to be honest in performing his official duties when he took the oath. This pledge made a very deep impression on me and I believe this is especially true for Hong Kong people, who have achieved what we have got today and succeeded in building up a perfect anti-corruption system after decades of suffering and injustices. This is dearly treasured by the public, our most cherished core value. However, we now see that our Chief Executive is suspected, let me still say that tentatively, of transfer of benefits, and this certainly makes me think of the two words "most improper" and another two words "self-degrading".

The incident this time has enabled the public to see plainly how corrupted can a Chief Executive elected through a small-circle election be. To Hong Kong people, the two words "corruption" and "bribery" are really too distressing. However, we see that the current Chief Executive has virtually done such things and the other Chief Executive candidates also have countless ties with many interest groups. The Chief Executive said it seems that he has been wronged and discredited, and no matter whether it is from his reply yesterday or remarks he made in two previous radio programmes, we do not think that he has ever cherished his opportunity to respond to the public.

We have originally requested a two-hour Question and Answer Session but this has now been cut short to an hour. To the public, I must speak on behalf of

a member of the public. I met a driver when I took a taxi outside the Legislative Council Building yesterday. After getting into the taxi and even before we reached the first red light, the driver said, "Miss CHAN, may I ask you a question?" I said yes and he asked why we had not impeached the Chief Executive. I said we still have to give him a chance to respond, and in any case, it is only fair that we give audience to his explanation. The driver became very angry upon hearing that. He said we have to look at the logic of every consideration and if something makes logical sense, then he will accept it, but he said the current situation is totally unacceptable. What made him feel most indignant is that he has two daughters who are both civil servants. His two daughters are law-abiding and loyal to their responsibilities and have performed their duties honestly, but what has the Chief Executive done? Just imagine how much this has hurt the feelings of civil servants?

Furthermore, a senior government official told me that he had never accepted lunch and dinner invitations from businessmen in general for there would be trouble if he accepted the invitation of A but declined that of B, so he might as well decline all invitations. And, of course, he must also avoid doing anything that might arouse suspicions, so he decided to save the time for serious jobs, for how could he be able to find the time to entertain so many people? Worse still, the Chief Executive even carried the Chief Executive name tag when he attended the banquet, which Mr CHIM Pui-chung has described in great detail earlier, during that visit to Macao. I am still somewhat confused after hearing his account and though he has only given us a verbal description, it has been a great eye-opener. What propriety is there in that behaviour?

Furthermore, I have talked to a friend who is the boss of a restaurant. He said he had heard many severe criticisms of the Chief Executive and asked what could be done? My first answer was: go buy a packet of peanuts and eat it for new facts are popping up every day, so how closely could we follow the new developments? Perhaps, there may not even be enough time to buy peanuts. However, the most important thing is that we have to fight for universal suffrage and not only for the right to vote but also the right to make nominations. Let us take a look at the two current candidates and their countless ties with the interest groups behind them. If each member of the public has a vote, then why can't they make nominations? No matter whether the electorate consists of 50 000 or 10 000 people, a Chief Executive Election, which is truly accountable to the

people, should allow people to make nominations. This is the simplest and most direct method, so why do we still have to depend on those 1 200 people?

I very much hope that our future elections will be genuine elections by universal suffrage without any screening process. I hope that people will have the right and opportunity to make nominations or even be nominated, instead of being subjected to the mercy of this group of people. Yesterday, we finally got the chance to form a select committee to look into the WKCD incident. This is a breakthrough, but I clearly remember what a colleague said yesterday, that the standard of our yardstick should be maintained at all times and should never vary. I really hope that if there is really a need to form a select committee to investigate the Chief Executive, colleagues will bear in mind the yardstick which we talked about yesterday. I also earnestly hope that we can hear what the Chief Executive has got to say to the public and that he will cherish the opportunity offered by the coming hour.

I so submit.

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

MR WONG KWOK-HING (in Cantonese): President, I have read carefully the Chief Executive's replies to eight urgent questions by the Legislative Council and found that the contents of the replies are, in fact, almost the same. One of the points seems to have touched upon the crux of the problem, which is also mentioned in the Government's reply. Since section 3 of the Prevention of Bribery Ordinance is not applicable to the Chief Executive, the Chief Executive has drawn up internal rules governing his acceptance of rides on a friend's private jet or yacht. Here lies the problem. If these are internal rules, why did the Government not conduct any public consultation accordingly in the first place so as to ensure that these rules were formulated under the principle of openness, impartiality and fairness? To date, we still have no idea about the specific requirements in the internal rules or specific provisions in respect of relevant practices under certain circumstances. In the written reply, it has only mentioned that "the Chief Executive may consider accepting such an invitation on condition that there is no conflict of interest, but he has to pay the fares for the

same journey on public transport to show that he has not saved any travelling expenses by accepting the invitation." I think this simple reply is not enough.

The point is: who is responsible for defining "on condition that there is no conflict of interest"? How do we make a judgment? Does the Chief Executive decide for himself whether an invitation can be accepted? Are there any objective criteria? Is there any independent third party to effect supervision? Is "to show that he has not saved any travelling expenses by accepting the invitation" a good criterion? We can see that the annexes to the eight questions by the Legislative Council are actually the same, pointing out that the Chief Executive has paid the fares which are similar to passages for the same trips on public transport. However, does such payment suffice to indicate that there is no conflict of interests or conflict of roles? Although the Government has now put the relevant practices in writing, I think the Chief Executive and the Government should do some soul-searching in depth. If it is feasible by simply following the practices and the internal rules, are they equally applicable to all civil servants? Hence, I think that warrants a review indeed.

Facing this series of incidents, the Chief Executive has announced to set up a five-member Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests with Andrew LI, the former Chief Justice of the Court of Final Appeal, as the Chairman to review the regulatory frameworks and procedures for the prevention of conflicts of interests concerning the Chief Executive, Non-Official Members of the Executive Council, and politically-appointed officials. I welcome the Chief Executive's decision. However, the decision was made only to prevent future happenings. As for the incidents that have happened and various allegations, I sincerely hope that the Chief Executive could clearly, fully and honestly explain to the general public during the Question and Answer Session to be held later today. I also hope that the Chief Executive can seriously consider and reflect upon the internal rules.

The spate of incidents has let us see that although the Chief Executive has claimed to have acted according to the internal rules formulated by himself, a series of problems has still arisen in spite of his abidance of the internal rules. Therefore, the internal rules need to be reviewed. What needs reflection is whether this kind of practice or rules that solely relies on the Chief Executive's

own conscience or judgment can be regarded as very high in standard. I opine that we really need to contemplate the practices in the past, draw a conclusion and learn a lesson from it.

Undeniably, the public demands highly of the Chief Executive and those in the leadership. Just as the Chief Executive said, they need to be "whiter than white". I wish to quote an allusion to illustrate the problem. An example was cited in page 62 of a book I published in 1994 to illustrate that the public will always demand highly of their leaders. I wish to quote Page 62 of the book to demonstrate that behaviour and custom of a person with authority often spread much quicker than expected. It is a story in *HAN Feizi* about Duke Huan of Qi, who was very fond of purple clothing and, as a result, the common masses all followed suit and wore purple. Duke Huan of Qi was so worried that he told GUAN Zhong, "We love to wear purple clothing, but it is very expensive. Now, the common masses are all tailor-making purple clothing. What should we do?" GUAN Zhong offered his advice to Duke Huan of Qi, "If you really want to curb this trend of improper practice, you have to stop wearing purple first. You also have to tell all ministers that you do not like purple clothing anymore. Whenever you see someone wearing purple, you must stress that you hate the odour." Duke Huan of Qi was willing to give it a try. Within one day, all ministers quitted purple clothing. Within a month, all common masses in Qi no longer wore purple. Within one year, nobody in his jurisdiction wore purple. (End of quote)

This allusion was written in my book. What message do I wish to convey? As the Chief Executive of Hong Kong Special Administrative Region, he is under the watchful eye of the people of Hong Kong. Every word he says and every move he makes greatly affects the public. Therefore he must exercise strict self-discipline, demanding highly of himself. But how do we draw up an objective standard? As I said in the beginning, it is not right to design all by himself a set of internal rules behind closed doors. This set of internal rules has to be formulated under the principle of openness, impartiality and fairness so that every act and everything can have some criteria to follow. I think it is necessary to learn a hard lesson from this.

When the Chief Executive comes to this Council later, however, I hope that he can sincerely apologize to the public for all the misgivings, dissatisfactions, criticisms and queries he created in the past. In addition to anticipating that the

Chief Executive can clarify the incidents in a humble and frank manner, I also hope that he can put his words into action and cope with the Independent Commission Against Corruption's investigation to find out the truth. I also hope that the Chief Executive can, after listening to the public opinion or Members' views, act swiftly and decisively to rectify things which have already been done, such as rescinding the tenancy agreement concerning the apartment in Shenzhen immediately.

President, no matter whether you are the Chief Executive, senior government officials or Legislative Council Members, there is a practical need to impose strict requirements on ourselves. When handling things that may involve our rights and obligations, we ought to be open and above board. Rather than making chalk of one and cheese of the other, we should adopt the same criteria to handle relevant problems. We require the Chief Executive as much as we require of ourselves.

During the long and serious debate, I happened to recall that some people had previously made accusations against some political parties in this Council. For example, the Civic Party and the Democratic Party have some members accused for taking private yacht trips, receiving private donations or sponsorships in excess of \$1 million and even over \$10 million. I think they also need to clarify before the public whether they were involved in any exchange of benefits or whether any promise thereof was made. I think the public wants to know. Therefore, I think we should not apply double standard. We can only use one single instrument to weigh the issue and judge what is right and what is wrong using that very same tool. It is incorrect for the pot calling the kettle black, repeating wrongful doings of those whom we have criticized severely. Besides being strict with others, we should also be strict with ourselves. I urge colleagues to be consistent in treating ourselves and others.

President, we have great expectations of the subsequent Question and Answer Session. I hope the Chief Executive will not be bound by the one-hour duration and he can explain and respond as detailed as possible in order to dispel the public doubts.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I will put the question on the adjournment motion to you. But before I do that, I wish to remind Members that if the motion is passed, I shall adjourn the Council under Rule 16(3) of the Rules of Procedure. In such case, this meeting cannot proceed to considering the remaining items on the Agenda.

PRESIDENT (in Cantonese): I now put the question to you and that is: That this Council do now adjourn

(Mr Paul TSE raised his hand in indication)

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

MR PAUL TSE (in Cantonese): I have pressed the button but nothing is displayed. It may be that the button does not function properly.

PRESIDENT (in Cantonese): I asked many times just now whether there were other Members who wished to speak. Since I have said that I will put the question to Members, so the Clerk has pressed the relevant button on the computer and this accounts for the situation described by you. Do you wish to speak?

(Mr Paul TSE indicated a wish to speak)

PRESIDENT (in Cantonese): Please speak now. Mr TSE, in future please do not indicate that you wish to speak after I have put a question to Members.

MR PAUL TSE (in Cantonese): Thank you, President.

PRESIDENT (in Cantonese): I know that you hope very much to speak after all the other Members who may wish to speak have spoken. But there are times when there arises a situation where Members will wait for each other to speak and so the idea will not work.

MR PAUL TSE (in Cantonese): Thank you, President, for the reminder. I was hoping to hear more comments from Members before I talk about my views on the issue.

PRESIDENT (in Cantonese): Please speak.

MR PAUL TSE (in Cantonese): President, I will focus on discussing why I wish to propose at this moment to activate the procedures under Article 73(9) of the Basic Law.

President, many Honourable colleagues have pointed out earlier that our target now is the Chief Executive and constitutionally speaking, the Chief Executive has all the powers vested in him. I do not think I need to talk about many of these powers. But there are three things Members must know. First, for reasons of security or public interest he can decide which officials can come to the Legislative Council to attend a hearing or give evidence. Second, since he is the superior of the Secretary for Justice and Article 63 of the Basic Law provides that the Secretary for Justice is the person who makes decisions on prosecutions in criminal cases, but as a matter of fact and seen from the hierarchy of subordination in the Government, the Chief Executive may give an impression to the public that when it comes to prosecution, especially on the commutation or mitigation of sentences, it is the Chief Executive who has the power to make

decisions. Therefore, he has influence in such matters. Third, he is responsible for the appointment of Members of the Executive Council. What is more important and crucial is that the Chief Executive is the superior of the head of the Independent Commission Against Corruption (ICAC). The ICAC has to be accountable to the Chief Executive and also in matters related to appointment, extension of term of office or any other such terms and conditions.

President, Article 43 of the Basic Law provides that the Chief Executive shall be accountable to the Central People's Government and the Hong Kong SAR. As the head of the Hong Kong SAR, there is no one in Hong Kong who is actually above the Chief Executive. Then how is he going to make himself accountable to the Hong Kong SAR? It is by making himself accountable to the people. How can he do so? He has to face the representatives of the people and make himself accountable to the Legislative Council. What should be done if the Chief Executive is found to have dereliction of duty or any misconduct? If this is a criminal offence, then of course, as everyone is equal before the law, he will be handled by the police or the ICAC. Then this comes back to the problem that I have just mentioned, that is, the police and the ICAC are in theory subordinate to the Chief Executive and they are under his influence in either a direct or indirect way. But if the said conduct does not constitute or is not serious enough to constitute a criminal offence, then what should be done? Examples are misconduct arising from dereliction of duty of a moral or political nature. Of course, there is monitoring by the media and more importantly, that of the representatives of the people, that is, Members of this Council.

President, the incident this time around may include different cases, some of which may be close to the dimension of a criminal offence while some may just be some problems of an ethical nature. I would give a detailed analysis of that when I have the opportunity to do so. And owing to the time constraint, I wish to point out first why the procedure prescribed in Article 73(9) of the Basic Law is appropriate. President, Article 73(9) by its very nature has got a number of foolproof mechanisms and safeguards. There is of course the "five-step procedure" which we are all very familiar with. And more importantly, at two stages of this procedure, there must be representatives of the people to make the wish of the people known in this Council on two occasions. The first stage is that during the activation procedure requires signatures from 15 Honourable colleagues. Another stage is in the fourth step, where there should be a two-thirds majority of votes cast in favour of it from Members of this Council.

For these two stages, it is the people who are to monitor the Council and in the process of exercising its powers on behalf of the people, the Council has got an equally important step and that is, an investigation shall be conducted by an investigation committee headed by the Chief Justice of the Court of Final Appeal. So in terms of procedure, unlike the claim made by some Honourable colleagues, it would not be a case of handing down a verdict even before the trial. As a matter of fact, there is a very stringent procedure for investigation and trial in the mechanism concerned. And this is to be handled by the Chief Justice of the Court of Final Appeal, and I am sure no one would question the integrity or professional ability of the Chief Justice. It remains of course, that it is the Central People's Government which is to be responsible for the final gate-keeping.

President, it must be noted that we do not have to prove the existence of any material criminal offence or any material proof of dereliction or abuse of public duty before this mechanism can be activated. If it is proved to be a fact, then there would be no need for an investigation in the first place. If the person is proved to have committed a crime, do we need to bother the Chief Justice to form a committee and investigate the question of whether he is guilty? This is because if the crime itself is on record, then it is already a fact. So with respect to the investigation procedure permitted under this mechanism, its design implies that the matter is not yet established as a fact. So there is this need to conduct an investigation. Therefore, it is ridiculous for many Honourable colleagues to say that the incident has to undergo a trial and investigation before this procedure can commence. These Members have not thought clearly about what this mechanism is like.

President, next, coming back to the wording concerned. What is required under Article 73(9) of the Basic Law is not the conviction of a crime but only a charge, that is to say, provided that there is a charge and that enough signatures are obtained from Members, then this mechanism can be activated. By "charge" it would mean of course that before a charge is laid, we should know if the elements required are met and there is sufficient evidence available. But this is no more than a charge.

President, what I am proposing at this stage is of course a holding charge, that is, a charge of a temporary nature. It can be said that no consideration is given to all the charges that may be laid at the same time. But that is not

necessary, for in theory, it would be in order if there is one charge which is sufficient. President, Members who have dealt with criminal cases, that is, those who are barristers or solicitors, should know that very often when someone has committed an offence, he may be involved in many other cases as well. For example, in a serial killer case, a serial rape case or a robbery case, the police do not need to press a charge for each and every count or after an investigation is conducted into all the victims before prosecution or trial proceedings can commence. It is often the case that for the sake of saving public money, we would resort to using a so-called test case. The key lies in the test case itself or the charge itself being the most serious case or one which is equally serious in a number of cases. Next, the result of the charge concerned. It would suffice so long as the result is that of the most serious in a number of cases or one which is equally serious. In other words, if there are 10 murder cases, we need only one corpse and lay one charge and that would suffice. We do not have to waste the time and public money to handle all the other nine charges, nine cases or nine bodies before this procedure can start. This is pure common sense. The most important thing is that the test case we have now, that is, we want to test whether there are sufficient grounds for pressing the charge, or whether there is enough evidence or any chance of success.

President, I have heard many Honourable colleagues say that it is unfair to the person concerned because we have only media reports as our basis. They say that we should first interrogate the Chief Executive and ask him to come here before this Council to explain things. President, I do not care about all these and what I rely on are solid facts. These include the so-called admissions made by the Chief Executive himself, that is, the facts that he himself has admitted and the most generous yardstick should be used on him and he should be given the benefit of doubt and we should base on the facts admitted by him, no more and no less. We do not necessarily have to accept his explanations and what we do is to treat every word he utters as if it were true without any cover-up and it is the truth, nothing but the truth. President, what are the facts we have in our hands? With respect to the grand mansion in Shenzhen, we would just need to have a copy of the tenancy agreement. Despite the fact that this tenancy agreement is a cause of our suspicions, for it was only entered into by both the parties concerned in February this year, we know the size of the flat and that at least \$3 million was spent to refurbish the place. These facts are admitted and we know that the refurbishment works had even started before the tenancy agreement was entered into. But we do not know for how long the works have been in progress.

There is a question mark here. We know that during the same period of time, the Chief Executive or the Executive Council chaired by him granted approval to an application for a licence in digital broadcasting. We also know that he had not declared any of his dealings with the owner or major shareholder to the flat concerned. All these are facts admitted by the Chief Executive in accordance with the existing channels concerned. We should assume first that these are all facts. We will not fabricate any other charges and we will consider everything that he has said as facts. President, can this be regarded as having a *prima facie* case?

We should not forget that we are not talking about criminal offences in which proof beyond reasonable doubt is required. What we pursue now is responsibility of a moral or political nature. Based on the facts which I have just mentioned and which are not denied, do we have sufficient grounds to press a charge and consider that the Chief Executive is to be morally and politically accountable for what he has done and this is sufficient to enable us to resort to using a test case to start the procedure concerned? President, why should the issue be raised now instead of at a later time? In fact, I may really have to wait a bit longer because with respect to the allegations made today, I would think that the charge regarding the Tourism Board may even be more serious than the mansion in Shenzhen. But that does not matter, for I think that the latter would suffice. Why should this be carried out now? This is because a chance missed is a chance missed. There are only a few months from now before the term of the Chief Executive expires. We hope that this incident can be a warning to the next Chief Executive or his successors and also all the top officials, that the consequences of such matters are very serious. Why can we not afford to wait? President, why can we not wait until Some Honourable colleagues have said that we should invoke the Legislative Council (Powers and Privileges) Ordinance or wait until the ICAC has finished its investigation. Let me first talk about invoking the Ordinance. This is only another investigation, to be carried out by this Council. There is of course some particular mechanism related to that. In some ways it can be seen as a public trial and if we seek to insult a person, it would be effective. But in terms of having the power to really dig into the matter or the so-called effect and efficiency of that, they are not good enough. It is not as fast as an investigation conducted by a person who is a Judge and who has got the relevant expertise. The time to be taken would likely to be longer and deadlines may not be met.

Why do we not wait for the investigation by the ICAC? President, first of all, cases handled by the ICAC are often of a criminal nature and the matters I am referring to border on criminal cases and they are more of misconduct of a moral or political kind. President, more importantly, the ICAC would face some kind of uncertainties when it takes action in this case. Apart from what I have said, that the Chief Executive is the head of the ICAC and that he is the superior to which the head of the ICAC is accountable, the case at hand also involves various issues like contract renewal for Mr TONG, the Commissioner of the ICAC and the intricate relationship he has with the persons concerned as his friends and acquaintances. In addition, as we have often criticized it, why can the TIC in the tourism sector not investigate its own people? In the present case, the Chief Executive does have a special status. He is not an ordinary big tiger, so to speak, but he is the supreme official in Hong Kong who is second to none. In these circumstances, if we are to rely on the ICAC alone, I am afraid the reasons I cited just now would become uncertainties that could prevent any thorough investigation from taking place. This is unfair to the persons concerned and as the procedures are in fact criminal proceedings, had these not been criminal offences, I am afraid the ICAC would not be able to Of course, I do not rule out the possibility of the ICAC pursuing the matter later on, but actions like these would not be as quick as those taken by the Council and not as reasonable and they cannot reflect public outrage about this.

President, the requirements found in the relevant provisions relate to a serious crime or an abuse of office. With respect to behaviour which is of a serious nature or an abuse of office, there is no definition in the legislation. President, what criteria should we use then? I have three suggestions to make. The first is that with respect to senior civil servants or other civil servants excluding the Chief Executive, what are the criteria we use to make a judgment or assessment? Mr Albert CHAN has cited a number of cases and many of these are about very minor interests. But the consequences are grave indeed. So a criterion can be the past cases. This is the second possibility. The third possibility is reference to the criteria adopted by this Council to disqualify Members, that is, the requirements under Article 79 of the Basic Law. If this is about an offence, then the requirements should be that the Member in question is put in prison for no less than one month and there must also be a vote by a two-thirds majority in the Council in order to disqualify him. If any of the current allegations raised is found to be substantiated and had it not been for the special position of the Chief Executive and the fact that section 3 of the

Prevention of Bribery Ordinance does not apply to him, then the facts of the case are entirely in conformity with these criteria. This is because any one of the offences can make him liable to imprisonment for not less than one month and this is a serious consequence indeed.

President, Members keep saying that we should wait. Of course, some Honourable colleagues have been saying that there should be procedural justice and there should be a trial first. I understand this completely. Having worked as a barrister for so many years, I fully understand that. But we are not asking for a real trial of criminal offences on this occasion. This can be conducted later. What we are asking now is that the public outrage and demand be addressed. And we should make our stand in this matter known for we are representatives of the people. We are duty-bound to represent the public as the last gatekeepers for the SAR in this case because it involved a serious dereliction of duty and its severity is close to that of a criminal offence and it is also about moral integrity and serious abuse of office in a political sense. What should we do about the offences committed by the Chief Executive given his supreme position in the SAR? The only possibility is for this Council to take the first step and activate this mechanism. President, if any Honourable colleague should say that the wording of the allegations is not clear enough, I can say that this can be changed at any time. But this should never be used as a pretext to put the matter off to a later date. To Members who always say that they will do what is politically correct and who have an aura of probity over their heads, this is the time for them to take action and they must not engage in empty talk anymore. Thank you, President.

PRESIDENT (in Cantonese): Before I invite Members to continue to speak on this motion, I would like to explain certain matters relating to the Chief Executive's Question and Answer Session to be held later.

Some Members have asked me how the provisions in the Rules of Procedure should be applied to references made to the conduct of the Chief Executive or questions raised regarding the conduct of the Chief Executive in the speeches made by Members. I wish to explain to Members now.

Rule 41(7) of the Rules of Procedure provides the following with respect to speeches made by Members: "the conduct of the Chief Executive otherwise

than in the performance of his official duties shall not be raised." As Members may notice, the speeches made from this morning up to the very moment earlier have referred many times to the conduct of the Chief Executive as widely reported by the media. Strictly speaking, these are not acts done when he performs his official duties. However, we also know that the topic of this motion debate is "the integrity and probity of the Chief Executive and his responsibility for upholding the fairness and impartiality of the next Chief Executive Election to be held on 25 March". And what have triggered this motion debate are precisely certain acts of the Chief Executive widely reported by the media. If it is because of the restriction imposed by Rule 41(7) of the Rules of Procedure that Members are unable to refer to these acts in the debate, then it would be unlikely that this debate can proceed in a reasonable and meaningful manner. Therefore, when chairing this motion debate, I will pay attention to whether those acts of the Chief Executive mentioned by Members are related directly to the debate topic. I notice that no Member has referred to acts not related to the debate topic and which are acts of the Chief Executive when he is not performing his official duties. So we have struck a reasonable balance between enforcing the Rules of Procedure and permitting Members to engage in a meaningful debate.

As for the Question and Answer Session to be held at 3 pm, as questions raised by Members to the Chief Executive are not considered to be speeches, so they are bound by another provision in the Rules of Procedure, that is, Rule 25(1)(j). The provision is on the contents of the questions asked. It is stipulated that Members shall not ask questions about the character or conduct of the Chief Executive. However, as Members are aware, the Chief Executive has agreed to attend the Question and Answer Session to be held later in accordance with Rule 8 of the Rules of Procedures, and as described by the Chief Executive's Office, the attendance by the Chief Executive in the Session this time is to enable Members to raise questions regarding the acceptance of hospitality extended to the Chief Executive by his friends and on matters relating to the flat he has leased in Shenzhen. These are matters found in media reports recently about certain acts of the Chief Executive. Members may ask the Chief Executive questions concerning these matters in the Question and Answer Session. Since the Chief Executive has agreed to take questions from Members concerning these acts, Members are not bound by the restrictions imposed on them by virtue of

Rule 25(1)(j) in the Rules of Procedure. For if this is not the case, the original purpose of the Session would be defected.

I would also like to make it clear to Members that since this Question and Answer Session is a special one, so there will not be any effect on the Chief Executive's Question and Answer Session originally scheduled. The Chief Executive has agreed to attend that particular Session for the second quarter of this year and it will proceed according to schedule. In addition, as the Session to be held soon is a special one and this is held at the request of Members to ask the Chief Executive to answer Members' questions on some special issues of concern to them, so I will be fair and let Members from all political parties and groupings raise questions. In view of that, we will not follow the practice as in other Question and Answer Sessions and make reference to the number of questions raised by each Member in order to determine the order of Members raising questions. In other words, every Member will be counted at the same starting point. Of course, due to the time constraint, not all Members who wish to ask questions may do so. We have conveyed to the Chief Executive our hope that he can stay longer. But the reply from the Chief Executive's Office is that it is hoped that the Session should be kept within one hour by all means. However, after an hour has elapsed and if there is still a considerable number of Members, especially those from various political parties and groupings, who have not been able to ask a question, the Chief Executive would be willing to stay and take a few more questions. I will make the necessary arrangements then to allow Members from different political parties and groupings to raise their questions.

Since the Secretariat staff will need some time to prepare for the Question and Answer Session and make adjustments to certain facilities in the Chamber, I will therefore suspend the meeting now. The Session will start at 3 pm and we will resume the meeting 15 minutes after the Session has ended.

(Mr Paul TSE raised his hand in indication)

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

MR PAUL TSE (in Cantonese): President, point of order. With respect to the Question and Answer Session to be held later, as this is not an ordinary kind of Session, I would like to know if any criteria can be set concerning the question time. This would be fairer than restricting the number of questions raised to one, not allowing a second question. What I mean is, we should not permit Members to ask a big question without any restriction on the time spent, as in the other Question and Answer Sessions we used to have. On the other hand, I would hope that the practice adopted in panel meetings can be followed, that is, a time limit is set for each question asked so that there can be more questions asked and a better control of the time used.

PRESIDENT (in Cantonese): Mr TSE, if any arrangement regarding the Chief Executive's Question and Answer Session is to be changed, the consent of all Members will have to be sought. With respect to the arrangements for the Chief Executive's Question and Answer Session to be held later, we can follow the established practice. But I wish to ask Members to co-operate and I will enforce the Rules of Procedure in a much stricter manner. If it is found that a Member asks a lengthy question, I will stop him or her. Members can only raise very simple supplementary questions and they must not make use of the opportunity to make lengthy speeches.

(Mr Albert CHAN raised his hand in indication)

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

MR ALBERT CHAN (in Cantonese): President, I wish to seek a clarification regarding the Rules of Procedure concerning the interpretation of offensiveness. This is because the questions to be raised in the Question and Answer Session are likely to touch on problems of corruption and bribery. In the debate held just now, we can see that Members have used words accusing the Chief Executive of being, for example, "shameless", and so on. In the Session to be held soon afterwards, if questions raised by Members contain words which accuse the Chief Executive of "amassing fortune", "corrupt", and so on, will these be regarded as offensive? May I know what is the President's yardstick in such matters?

PRESIDENT (in Cantonese): Being offensive is being offensive and there is no question about it. I will make a ruling. Mr Albert CHAN, if a question asked by a Member is a genuine question, I will not regard it as being offensive. But if a Member tries to heap offensive remarks onto the person to whom a question is directed and asks if he would agree, then I would consider the question offensive. Since it is the hope of Members that the public can know more about the truth of the matter through this Question and Answer Session, I would ask Members to raise their questions along this line by all means.

PRESIDENT (in Cantonese): I now suspend the meeting. This Council will hold a Chief Executive's Question and Answer Session at 3 pm.

2.42 pm

Meeting suspended.

4.45 pm

Council then resumed.

PRESIDENT (in Cantonese): Council now resumes. We will continue with the debate on the motion for the adjournment of the Council.

MR ALAN LEONG (in Cantonese): President, it is my honour to be the first Member to speak after the Chief Executive's Question and Answer Session.

We have just heard the replies from the Chief Executive which we find totally unacceptable. It is because the Chief Executive is basically only saying that so long as he is scrupulous in separating public interest from private interests, and has a clear conscience, there will not be a problem even if he accepts gifts like aeroplanes, cannons or rockets. Whatever kind of entertainment that he accepts will not pose any problem as long as he has a clear conscience. However, when I particularly asked him earlier whether he felt that it was a case

of *quod licet Jovi, non licet bovi*, and whether he understood the anger of 160 000 civil servants, he replied that he had a set of internal rules. This set of internal rules only applies to him. Different from the general civil servants, for those things which civil servants cannot do, he can do them as long as he has a clear conscience and as long as he is scrupulous in separating public interest from private interests. When I found it interesting and asked the Chief Executive when he announced that set of internal rules, whether it was written in black and white, whether consent of the Executive Council Members had been sought, whether it had been submitted to them for perusal and could it be shown to us, President, I believe you also remember that he evaded these questions completely. He only said that it might differ from people's expectations and he thus invited Mr Andrew LI to assist in formulating a set of "presentable" criteria. Plainly speaking, this is what he meant. Of course, I was not quoting his exact wording. But this seems to be what he meant.

Nevertheless, we would think, "How can that reply be acceptable to us?". He has been a public officer for more than 40 years. Even if his years of work before the establishment of the Independent Commission Against Corruption (ICAC) in 1974 are not taken into account, and neither is the period after he became the Chief Executive in 2005 counted, as he has been working according to his so-called internal rules since then, he has been a civil servant for 31 years from 1974 to 2005. During this period of time, the Prevention of Bribery Ordinance was applicable to him and all civil service guidelines were also applicable to him. This means that he was already accustomed to this set of rules for 31 years. It is unreasonable that after becoming the Chief Executive, all of a sudden, only he can light the fire while all common masses are forbidden to light a lamp. This is very weird indeed.

Thus, his logic is totally untenable. After hearing his reply, the Civic Party thinks that even if he apologizes, what at the most will he apologize for? He will apologize for being too presumptuous and nothing else. He said he really thought that it was all right as long as he acted according to this set of internal rules, and it was all right if he and his wife paid \$500 in fare for taking a luxury yacht back to Hong Kong. President, I also asked the Chief Executive a question earlier. People in the local communities are very direct. They asked, "Alan, I give you \$200. Can you also arrange for such kind of yacht trip for me?" This is a very direct question. The Chief Executive was also very

evasive of this question just now. Of course, I believe he knows that he is short of explanations. He is only using the internal rules as the protective shield, which no one has ever seen. They may only exist in his mind and have never been clearly written in black and white.

President, the Chief Executive just mentioned that reference had been drawn from other democratic countries in formulating a code for himself. However, which democratic country has such a practice of having a chief executive formulate some codes for himself while these codes have never been seen by another person? This is very bizarre. How exactly is this set of criteria drawn up? I believe such absurd answers should not be acceptable to the Hong Kong people. I think the Chief Executive should understand that he is now not monitoring himself or managing his own family when he can simply talk with Mrs TSANG. He is not supposed to merely live up to his own standard. At present, not only is he the Chief Executive of 7 million people, but he is also the leader of 160 000 civil servants. Therefore, he cannot say that there is a set of internal rules and it is all right as long as he has met his own standard. However, he will also admit for his own mistake. He acknowledges that he is too presumptuous and people's expectations have already changed.

In fact, people's expectations have remained the same for decades. I do not think that their expectations have ever changed. The Chief Executive also knows, especially when he has been a civil servant for 31 years after the establishment of the ICAC, he also clearly knows and understands the argument. Hence, he cannot get away simply by saying "I have a clear conscience". Of course, he deeply understands that he should avoid doing anything that will arouse suspicions. For the 160 000 civil servants in Hong Kong, if they have ever done any such things just like him which are now exposed, they surely will have troubles. A Member of this Council pointed out earlier in the three cases, the ex-civil servants concerned had breached the stipulation on acceptance of advantage. The situations of those cases are much less serious than the present case of the Chief Executive. However, the punishment that they received for this criminal liability was very heavy. Hence, in this aspect, the Civic Party opines that it is simply impossible to accept the replies given in the Chief Executive's Question and Answer Session earlier.

President, Mr Paul TSE, who spoke before me, strongly recommended the motion of impeachment that may be moved in accordance with Article 73(9) of

the Basic Law. However, President, I think to any person in Hong Kong, what he most wants to know now are answers to the questions that I pointed out just now, and whether he has practised favouritism. For instance, after accepting entertainment from Mr WONG and Mr CHEUNG, or accepting the luxurious apartment for his retirement, will that affect his duty to protect the interests of Hong Kong people? It is because if he does not carry out his gate-keeping duty effectively, the interest of 7 million Hong Kong people will be sacrificed. Since there are so many outstanding questions, the public will definitely hope to find the answers from public procedures as soon as possible.

Within the scope of operations of the Legislative Council, the Civic Party considers that a more proper way of handling the case may be forming an investigation committee on powers invoked under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance). It is because in the course of this procedure, as the President also knows very clearly, every document that we scrutinize, every witness whom we summon and every question that we ask will be presented before the eyes of the public. In my opinion, this is the best way to respond to and satisfy the due right to know of the public.

Given that Article 73(9) of the Basic Law has been mentioned in our discussion, I would also like to particularly point out that I, of course, think that this is tantamount to the death penalty. If the power prescribed under Article 73(9) of the Basic Law is exercised, this surely will be the last resort because the result of impeaching the Chief Executive will be to remove him from office.

President, I would like to refer to the wording of Article 73(9) of the Basic Law in particular. That Article reads, "If a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form an independent investigation committee". President, in regard to this Article, I do not believe in what Mr Paul TSE said, that a committee could be formed when there was a charge. It is because if that is so, as mentioned in page A4 of *Apple Daily News* today, Mr Paul TSE was instructed by "West Point" to move this motion of impeachment, and this can be regarded as a charge. Are we also going to investigate this? I do not think so. Now, what we can see is that the Chief Executive may now be

involved in corruption or abuse of his power for personal gains. If it is corruption or abuse of his power for personal gains, as far as law-enforcement authorities are concerned, there are such authorities especially responsible for such investigation. And the most reasonable and natural choice is the ICAC. The ICAC has already announced that it would put the case on file for investigation. This will be an investigation behind close doors and it will not be done under the sun, while every step, every document and every witness will not appear before the public and thus the right to know of the Hong Kong people will not be satisfied. Nonetheless, given that this law-enforcement agency, which is the most natural and reasonable choice for such investigation, has already commenced the investigation, we should place certain trust in this agency. We should not point out in the first place that before being promoted to the office of Commissioner, Mr Timothy TONG had some ties with the Chief Executive. In that case, the system cannot operate. Hence, we opine that while we support the Legislative Council in forming an investigation committee by invoking the P&P Ordinance, we should also give the ICAC some space and time to investigate the Chief Executive on his alleged acts of corruption and abuse of power for personal gains.

Certainly, President, one does not need me to remind him that section 31AA of the Prevention of Bribery Ordinance (POBO) also stipulates that after investigation, when the Commissioner of the ICAC has reason to suspect that the Chief Executive may have committed an offence under this Ordinance, the Commissioner may refer the matter to the Secretary for Justice. The Secretary for Justice may consider whether to refer the matter to the Legislative Council under section 31AA(2) of the POBO for us to consider whether to move a motion of impeachment or take any action under Article 73(9) of the Basic Law.

The Civic Party opines that this is already a very clear arrangement under the POBO, which is also linked to Article 73(9) of the Basic Law. What we are now discussing is the situation where the Chief Executive may be involved in corruption or abuse of his power for personal gains. Therefore, we basically do not need to think of other scenario at the present stage. It is because if we are handling a charge of dereliction of duty, while there is neither an agency like the ICAC to carry out an investigation nor a linkage between section 31AA of the POBO and Article 73(9) of the Basic Law, that will of course be another issue. However, the issue before us now is a rather clear and possible crime or a likely

act of abuse of power for personal gains. Hence, the Civic Party thinks that this is not the right time to hastily initiate the impeachment procedure under Article 73(9) of the Basic Law. On the contrary, the Legislative Council should discuss the issue as soon as possible. This morning, I heard Mr LEE Wing-tat mention in his speech that he would write to the House Committee, hoping that during the meeting on Friday, his proposal of forming an investigation committee under the P&P Ordinance could be handled as soon as possible, so that the right to know can be returned to the public who can also get answers to the questions the Chief Executive has all along been evading or unwilling to give a definite response.

I so submit.

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

MR FRED LI (in Cantonese): President, it is a pity that Mr Paul TSE is not in the Chamber at the present moment. I would like to briefly respond to his speech. I hope that he can hear my response when he comes back to the Chamber later on.

Although I did not have the opportunity to pose a question to the Chief Executive earlier on, I had been present for the whole session, listening to his answers. After the Chief Executive's Question and Answer Session, a reporter from the Television Broadcasts Limited interviewed Mr LEUNG Chau-ting, Chairman of the Hong Kong Federation of Civil Service Unions, who is the representative for civil servants, and asked his views on Mr Donald TSANG's answers. I heard that he, who is an elementary grade civil servant, stated that he did not accept the answers. He also pointed out that while carrying out various official duties, elementary grade civil servants were highly scrupulous and cautious, fearing that they would have accepted advantages or entertainment. He even said that a colleague had been given a warning because of 10-odd dollars. On the contrary, Chief Executive Donald TSANG only paid an amount equivalent to the price of a single flight for riding on a private jet, and this can hardly convince the general public.

Besides, the crux of the question is that if Mr Donald TSANG was not the Chief Executive, would there be people treating him to a private jet ride or a night on a private yacht to Macao? For all these years, of course there were times when it was hard to clearly distinguish between public and private interests. Some of his friends might be met when he was carrying out official duties in his capacity of the Chief Executive and they got along very well. Hence gradually, he also participates in the private activities of these friends, and even spends his private time with those that he met at work. Once they become friends, it is even more difficult to distinguish between public and private interests.

I would like to quote an example. I have known Secretary Raymond TAM for years. In Kwun Tong when he was young, had more hair, and just started his career as an Administrative Officer, he was the Assistant District Officer. Back then, I thought that he was full of energy and sincerity. And I have witnessed his promotion to this position today.

Although I can co-operate with him and feel pleasant working with him, I will not invite him to my own or my mother's birthday party. We will not have private gatherings. We have not reached that stage yet. Of course, some day when I am no longer a Legislative Council Member, I will invite him to my birthday party. I find that this kind of relationship is very clear. It is because if he and I have a private relationship besides the working relationship, this will invite troubles. I find that the existing pattern is the clearest.

In my opinion, the gravest problem with Mr TSANG is that he has been in the Civil Service for many years, having worked in different positions. He has a large circle of friends and naturally, there are more people who get along well with him. On private vacation, he may accept their invitations or take the initiative to invite them to his activities. However, in the eyes of Members, the public and elementary grade civil servants in general, they cannot help asking, "Is there something wrong? Has he really gone so far as to accept their hospitality?"

Besides, unfortunately enough, all of them are billionaires. If a worker has invited him to a meal at a sidewalk food stall, will that attract such media coverage? I think it will not. I also believe that he will not accept that invitation or entertainment. Therefore, the problem is that since the activities attended by him are of such nature and his acquaintances are both wealthy and

influential, if these billionaires have a lot of public investments, once they are connected with the Government, he will find it difficult to explain.

He has been in the Civil Service for many years and there are blind spots as he mentioned earlier. Besides, he has been the person in charge for too long, always making decisions on his own without giving objective consideration, while his subordinates dare not say too much. The problem has thus arisen.

Therefore, during the House Committee meeting tomorrow, Mr LEE Wing-tat from the Democratic Party will move an agenda item. We are of the opinion that the Chief Executive's Question and Answer Session today fails to address the many queries that we raised on behalf of the public and the mass media, and neither is it able to resolve the many queries of Legislative Council Members. There were 20 Members waiting in the queue to ask questions earlier on, but not all of them could ask questions. Hence, I think that we should exercise the power vested in us under the Legislative Council (Powers and Privileges) Ordinance (P&P Ordinance) to collect information and carry out an investigation as soon as possible.

Although the term of office of Mr Donald TSANG will end in a few months' time, we think that it is still necessary to find out the truth of the matter. At the same time, through the special committee led by Mr Andrew LI, a mechanism will be drawn up for the future Chief Executives to prevent them from formulating rules on his own as the internal guidelines. As we can see today, formulating one's own rules is a wrong act. Although the special committee led by Mr Andrew Li will draw up a mechanism, in regard to whether Mr TSANG is involved in conflict of interests in those matters, we also have the responsibility to probe and gain some understanding.

If my memory is correct, Mr Paul TSE hastily initiated the procedure of impeachment in accordance with Article 73(9) of the Basic Law on Monday, which is unprecedented. In this Council, even the Democratic Party, which is labelled as the opposition, has never proposed to initiate the procedure of impeachment and sought joint signatures from Members. Although we have moved a motion of no confidence, this motion does not have any binding effect. Nevertheless, initiating the impeachment mechanism is a very grave and serious matter. The Member who moves such a motion needs to have grasped the basic evidence and should not move the motion rashly.

Mr Paul TSE said in his speech just now that being a lawyer, he knew the kind of punishment in similar cases. I feel worried about that. Besides, he also said that when he proposed to initiate the impeachment procedure on Monday, neither the Democratic Party nor the Civic Party had given their signatures. The following morning when Mr TSE was interviewed in a radio programme, he said that he belonged to the pro-establishment camp instead of the Civic Party or the Democratic Party. He believed that if the proposal to initiate the impeachment procedure were put forward by them, 20 Members would have given their signatures immediately. He felt that just because he was not a Member belonging to the Civic Party or the Democratic Party, the latter would, as an alternative, move the motion itself rather than letting him get the credit.

What he said is no different from a conspiracy theory. He only deduced why other Members did not give him their signatures. We have given an explanation but he did not listen. Besides, Mr Alan LEONG of the Civic Party phoned into the radio programme afterwards that day and gave an explanation very clearly. However, I do not know whether Mr TSE has heard that or not.

Buddy, some urgent questions were actually raised by Members during the Legislative Council meeting on Wednesday. A Chief Executive's Question and Answer Session was held on Thursday. And an agenda item related to the P&P Ordinance raised by Mr LEE Wing-tat will be discussed during the House Committee meeting on Friday. We are not oblivious to or unconcerned about this issue. I believe that if he asks the public, he will notice that the majority public will think that the pan-democratic camp is more active and putting more efforts in monitoring the SAR Government, and that it is even spurring on and supervising the Government mercilessly, to an extent no less than the pro-establishment camp. The performance of the pan-democratic camp will not be too bad in this respect. It is definitely not because Mr Paul TSE belongs to the pro-establishment camp that we do not give him our signatures. Nonetheless, if he deduces that way I can also follow the same line of thought and deduce the motives behind Mr TSE's proposal. I originally did not want to say it. However, after listening to his speech, there was an idea in my mind which I have not told the reporters openly. And he just kept on talking about the issue in the radio programme.

In fact, the reason is he is canvassing for votes to run for the directly elected seat in Kowloon (East). He always says that he is reflecting public opinions, that he understands the frustrations of the public. He thus has to be the mover of the motion of impeachment on behalf of the public. Similarly, I can also use his logic to deduce his ulterior motive. However, he should not put a wrong label on those who did not give him their signatures.

The pan-democratic camp will definitely not treat the Government leniently, which everyone can notice through all these years. Some Secretaries like to call us as the "opposition". Some "pro-Beijing" newspapers always describe us as opponents to the Chinese Government who cause disturbance in Hong Kong, and we are trouble makers. It is true that I have known Mr Donald TSANG, the Chief Executive, for 20 years and it is a very long period of time. However, if he has done anything wrong, we will point it out all the same. If Secretary Raymond TAM has done anything wrong, we will criticize him all the same. Nonetheless, we still have to be fair. If he has done well, we have to give him credit. Only if we are fair and impartial in monitoring the Government can we live up to our position as Legislative Council Members.

The explanation given by the Chief Executive earlier is still unable to clarify the queries. He made those friends in the course of public duties. But subsequently, public duties were mixed with private interests and he began to accept their hospitality. If the person who accepts such hospitality is Secretary Raymond TAM Secretary Raymond TAM, I would like to illustrate with an example. If Ms Eva CHENG, Secretary for Transport and Housing, boards the private yacht of Mr LI Ka-shing once every year — I am not sure whether he has any private yacht, but I just assume that he has — and accepts hospitality, or visits Xian or other places on the private jets of another real estate developer and she similarly paid an amount equivalent to the ticket fare of economy class, do you consider that acceptable? Do you think the Chief Executive will approve or allow her to do that? The answer is very simple.

If the other party is a tycoon, can the Secretary mix his public duties with private matters and discuss them with the tycoon? I do not think that he will, and I believe none of our Secretaries will. However, why would our Chief Executive do that? The problem is that the Chief Executive seems to be beyond the scope of supervision. He is not subject to any supervision. Basically, it is

not necessary for Secretary Raymond TAM to attend this meeting and respond to this motion today. He cannot represent the Chief Executive. He only sets up the supervision criteria concerning public officers and politically appointed officials on behalf of the Chief Executive. Nevertheless, these supervision criteria are not applicable to the Chief Executive. The grave problem has thus arisen.

Here, I hope colleagues can do some serious thinking, as the motion of impeachment should not be moved rashly. On the contrary, we should consider whether the Legislative Council should make more efforts. If finally the Chief Executive really has to be impeached, we definitely will not be lenient. The procedure to impeach the Chief Executive is not initiated on the basis that he is being partial in handling the issue and being anxious for small advantages. Instead, as provided in the Basic Law, it is initiated on the basis that the Chief Executive is charged "with serious breach of law or dereliction of duty and if he or she refuses to resign".

I so submit.

MR FREDERICK FUNG (in Cantonese): President, we got an opportunity to ask the Chief Executive some questions earlier. However, as I was unable to completely state my views due to the time constraint, I would like to take the opportunity of the adjournment debate to say something.

President, I believe many of my questions have already been covered by colleagues, therefore, I am not going to dwell on issues like the whys and wherefores of the matter, who were involved, how much money was spent on the food, and so on. Instead, I would like to look into the matter by looking at the most basic and fundamental issues.

Today, the Chief Executive has come to the Legislative Council and spoken at great length on his own history. He said he has been an official for a long time, always aware of the need to be honest and clean, and he even usually told the press that a Chief Executive has to be "whiter than white".

I totally agree to such views and I believe no one will object to or question such views. And, to my understanding, there are several elements in the Chief

Executive's background that can help strengthen his knowledge of issues like probity, stainless reputation, fairness and justice, and this include the fact that he is Chinese, brought up and educated in Hong Kong. In fact, insofar as traditional Chinese values, in particular the values of an official, are concerned, anyone who has studied history and literature should be aware of the views of the Chinese people on what is meant by good officials, corrupt officials and bad officials.

Secondly, as a Catholic, his religious beliefs of course, being a Christian myself, I may not be able to fully grasp all Catholic doctrines, but the doctrines of both faiths are basically the same in that believers are systematically guided and reminded to be beware of certain issues, and Catholics are even guided by the "Ten Commandments". So, such background will help strengthen the Chief Executive's knowledge of what is meant by probity, stainless reputation, fairness and justice.

And, the point that he has served as an official for 40 years need no further mention. He will not think that he has only been an official for a couple of months, or 30 or 40 days and thus has no idea of what is meant by fairness and justice.

Against these three elements of his background, I think that there is no doubt and no question that the Chief Executive should be aware of the views of Hong Kong society on such issues as fairness, justice and values, which I have mentioned earlier.

Of course, since he has served as the Financial Secretary, he should even be particularly sensitive about one thing, and that is, numbers. When he was the Financial Secretary, he must have done many calculations and knew which expenditure should be incurred and which should not, which expenditure is reasonable and which is not. On the issue of numbers, he should be more sensitive than the average person and civil servants in general.

I learnt from information provided by the Government yesterday on the hospitality enjoyed by the Chief Executive that there was actually a more than ten-fold difference between the value of the entertainment and that calculated on the basis of the rules he applied to himself (that is, he always pays the equivalent of commercial public transport fares).

Take his trip to Japan as an example, according to his own calculations, the total cost for him and his wife is \$188,000. However, if the cost were calculated on the basis of round-trip commercial public transport fares, it would only be a little more than \$10,000, thus there was a more than 10-fold difference in value. I do not believe that a Chief Executive with the earlier mentioned background — regardless of which one of the elements, that is, understanding of the values of a traditional Chinese society, has religious beliefs, served as a government official for many years and also service as the Financial Secretary — could turn what he has done into something right, something blameless and uncorrupted, on the basis of the rules he made for himself.

As the Chief Executive himself, he can simply not make any rules for himself. If there are no rules at all, then he can just say why he has not made any rules as the Chief Executive and he can still say that he has not made any rules because traditionally, there are no rules. In that case, perhaps we can make some rules anew. However, if he has made the rules himself and then failed to pay the cost of the hospitality he enjoyed, and when there was a difference between the value of the two for example, the cost of Macao ferry tickets is \$500, and the Chief Executive might have paid \$500-odd, and there is only a difference of several 10 cents or a dollar, then I believe Hong Kong people will not consider this a problem. However, there is a big problem if the difference is between \$500 and \$50,000. As such, the difference in figures may turn quantitative changes into qualitative changes. Against the four elements of his background which I mentioned earlier, there is no reason why Chief Executive Donald TSANG would not know, fail to grasp or think that there is no difference between the two. President, this is the first major point which I would like to raise.

This shows that he is a typical civil servant who thinks that when he draws a small circle around what is black; anything outside the small circle will be white. Since he has drawn a small black circle, the rest of the area will be white and he can be scot-free. Regardless of the fact that people in general think that such actions are corrupt, unacceptable and over board, he still thinks that they are acceptable.

I cited an example when I asked my question earlier, and that was, if he could get a ride in a rocket, a commercial rocket, one day — tycoons could now

buy a ticket for a rocket ride to the moon for a cost of \$100 million — if the rocket were for the exclusive use of the Chief Executive, then the fare might be higher than \$100 million. It might be \$800 million or \$1 billion, and if it were for the use of 10 "rich men", then the fare would be \$1 billion, so if it were for the exclusive use of the Chief Executive and he were only charged \$100 million for a ride to the moon and back, then does it mean that the Chief Executive would not have to be charged \$1 billion?

In other words, there is a difference between the cost of the service which he should pay and the actual amount he has paid, and apart from the monetary value, the issues of moral, fairness and justice values are also involved. He cannot regard such issues as valueless or just turn a blind eye to them.

The first point I asked in my follow-up was about the occasional hospitality, trips to Macao, meals, and private jet rides to this place and that, offered by his so-called friends though he said he has only accepted four such invitations, I hope that the Secretary will list all such invitations he has accepted since he took up the office of the Chief Executive, so that we will have a clear idea of whether there has only been four such occasions, and whether the difference in the value of the treats is only as such. Were the invitations extended by different people each time? Was there any occasion where 10 invitations were extended by Mr Frederick FUNG? If so, I would ask why such "ordinary friends" have entertained the Chief Executive so frequently or so many times?

As the Chinese proverb goes "too much solicitous hospitality without any cause would be considered as an ill deed", this is a saying which we have learnt at a very young age, and something which we can recite in primary and secondary schools. If the so-called "ordinary friends" have entertained him more than once or many times, has he ever felt worried for a second — not to mention for a minute? If he said he has not felt worried, then against the four elements of his background which I mentioned earlier (that is, traditional values of the Chinese people, member of the Church, service as a government official for 40 years and service as the Financial Secretary), I have to question him.

As such, I think that he should be worried and he should ask himself why has this person, though a friend, invited him to Macao on such a frequent basis?

If he has been invited more than once or twice, not to mention frequently, then he should ask himself why.

The second point of my follow-up, I turned my question around and asked him instead, if that has not been the case — for his answer was no — is it due to the fact that he has his own rules, so if anyone offers him any hospitality, then as long as he has paid the equivalent cost of commercial public transport, he does not have to pay any attention to the cost of the treat? And does he still think that there is no problem, even though there is a ten, twenty, a hundred or even a thousand times difference between the cost of the treat and that of commercial public transport because he has stated that he will only pay the equivalent fare of commercial public transport? However, if he accepts the hospitality of his friends in forms of car rides, jet rides and luxury yacht rides for his exclusive use, then infinite multiple cost values may be involved.

Therefore, he cannot say that since he has already made rules to impose restrictions on himself, then there will not be any problem at all so long as such rules are complied with. This is unacceptable for Hong Kong people and Members of the Legislative Council do feel that there is a problem with the Chief Executive, for we are applying the traditional values of Hong Kong and Chinese people, that of a member of the Church, and that of government officials when we look at the current problem of Chief Executive Donald TSANG.

On the other hand, I have also asked another question earlier and that was, whether the Chief Executive himself has ever considered that when he accepted the hospitality of a person, and regardless of the number of times, would he form any favourable impression of this person? This is very hard to quantify, for it is very difficult to quantify the magnitude of favourable impression which has been formed.

However, human contacts, human relations and human affections are nurtured through such opportunities and occasions, whereby complete strangers become acquaintances, acquaintances become friends and friends become "close friends", close friends become bosom friends; and male and female can even become friends, good friends, go on dates and married as husband and wife. I do not know, but the Secretary must have gone through the process of courting girls before he got himself a wife. At least, I have courted my wife. I have

really courted her, asked her out on dates, gone to movies and had meals together in the hope that good impressions could be formed during the process.

During such processes, has Chief Executive TSANG ever for a second, or even a minute, formed a better impression of the person who offered him such hospitality, has he formed a slightly better impression of his hosts? The formation of better impressions is an invisible process and it is impossible to see any immediate rewards. However, when good impressions have gone to heart, entrenched as personal feelings, then such good impressions will be extended, regardless of whether it is to the person himself or the company behind him in future. Then will this affect future official dealings in which similar good impressions are extended? This is something which the Chief Executive does not know for this is something which exists in his subconsciousness.

President, my speech today has focused not only on whether the things done by the Chief Executive TSANG are in breach of the law or constitute a crime. My other argument is whether he has violated any general social common sense and values. I think that there is a very high possibility of it being the latter case, and that is, the third case, for at least when we learnt about such incidents, not only Mr Frederick FUNG was shocked, Legislative Council Members were shocked, but even many Hong Kong people were also shocked. In fact, that constitutes a violation of the general social values which many people know about, but to my surprise, the Chief Executive said he does not know that society has changed, the world has changed and everyone has changed, and he is the only one who has remained unchanged. We are all drunk and only he remains most sober.

President, I do not agree that this problem should be dealt with by means of impeachment. I have always objected to the idea that investigations should be conducted by the Legislative Council, by Members of the Council or government officials, because we are not experts in investigations, and we will easily be mistaken and misled by certain information, for impeachment involves conducting investigations, finding out the truth and finding out whether the person in question has violated the law and whether he has dereliction of duty. I think that this job should be taken up by a third party, such as the Independent Commission Against Corruption or the police.

However, we have now got to give a clear account of the matter to the public, to let them know that the civil servants of Hong Kong and the bureaucratic system of Hong Kong still remain honest and clean. And, as I have said earlier, even if the Chief Executive has violated the rules of general social values which are accepted by the ordinary people, only Chief Executive Donald TSANG alone is involved, and at least, civil servants within the civil service system have not acted like him. For this reason, I think that there is a need to invoke the Legislative Council (Powers and Privileges) Ordinance to find out the facts and give the public an account.

President, I so submit.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I will now put the question to you. I would like to remind Members again that if the motion is carried, then I will have to declare that the meeting is adjourned.

PRESIDENT (in Cantonese): I now put the question to you: That this Council do now adjourn. Will those in favour please raise their hands?

(No hands raised)

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

(Members raised their hands)

PRESIDENT (in Cantonese): I think the question is not 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 negated.

PRESIDENT (in Cantonese): The fifth and sixth motions. I have accepted the recommendations of the House Committee: the movers of the motions will each have up to 15 minutes for their speeches including their replies; and other Members will each have up to seven minutes for their speeches. The mover of the second motion will have another five minutes to speak on the amendments; the movers of amendments to that motion will each have up to 10 minutes to speak. I am obliged to direct any Member speaking in excess of the specified time to discontinue.

PRESIDENT (in Cantonese): The fifth motion: Report of the Subcommittee to Study Issues Relating to the Power of the Legislative Council to Amend Subsidiary Legislation.

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

I now call upon Dr Margaret NG to speak and move the motion.

REPORT OF THE SUBCOMMITTEE TO STUDY ISSUES RELATING TO THE POWER OF THE LEGISLATIVE COUNCIL TO AMEND SUBSIDIARY LEGISLATION

DR MARGARET NG: President, I move that the motion, as printed on the Agenda, be passed.

In my capacity as Chairman of the Subcommittee to Study Issues Relating to the Power of the Legislative Council to Amend Subsidiary Legislation (the Subcommittee), I move the motion standing in my name on the Agenda.

Members will recall the controversy of the resolution to repeal the Country Parks (Designation) (Consolidation) (Amendment) Order 2010 (Amendment Order) passed by this Council at its meeting of 13 October 2010. Following the passage of the resolution, the House Committee discussed ways to follow up on the issues arising from the Amendment Order. Members were gravely concerned about the Administration's legal views, which seemed to suggest that the Legislative Council might not have the power to vet or amend certain subsidiary legislation subject to the negative vetting procedure. The House

Committee appointed a subcommittee to study in depth issues relating to the power of the Legislative Council to amend subsidiary legislation which is subject to section 34 of the Interpretation and General Clauses Ordinance (Cap. 1).

The Subcommittee has focused its examination on, among other things, statutory provisions indicating the nature of an instrument as subsidiary legislation; enabling provisions in various ordinances in relation to the scrutiny of subsidiary legislation by the Legislative Council, the procedures and practices to be followed where the Legislative Council and the Administration take different views on the interpretation of provisions impinging on the Legislative Council's jurisdiction to amend an item of subsidiary legislation; and principles and policies for delegating legislative powers by way of empowering an Executive Authority to make subsidiary legislation. The Subcommittee has held in-depth discussions with the Administration, and exchanged views with representatives from The Hong Kong Bar Association (the Bar). After examining the relevant issues, the Subcommittee has come to a number of observations and recommendations. I wish to highlight some of them.

The Subcommittee notes that under Article 73(1) of the Basic Law, the powers and functions of the Legislative Council include "to enact, amend or repeal laws in accordance with the provisions of this Law and legal procedures". Therefore, the Legislative Council is vested with the power and constitutional duty to scrutinize and, where necessary, to amend or repeal laws. The Subcommittee and the Administration agree that when delegating its power to an Executive Authority or other body to make subsidiary legislation, the Legislative Council has the power and duty to control the exercise of delegated legislative powers.

In determining whether an instrument made under an ordinance is subsidiary legislation, the Subcommittee notes that the statutory test is whether such an instrument has "legislative effect". However, in the absence of a statutory definition of the expression "legislative effect", there is difficulty in determining whether an instrument has legislative effect and therefore is subsidiary legislation. In view of this difficulty, the Administration has since October 1999 included in the legislation an express provision declaring or clarifying the character of the instrument in cases of doubt. The Subcommittee considers that this approach should continue.

President, the Subcommittee also observes that the Administration has not always stated in the Legislative Council briefs on subsidiary legislation whether the Legislative Council has the power to amend or repeal the subsidiary legislation concerned, but, as the case of the Amendment Order has demonstrated, can allow the Legislative Council to remain unaware of its position up to the last moment. To avoid incident similar to the case of the Amendment Order from happening again, the Subcommittee is of the view that the Administration should state clearly in each Legislative Council Brief on subsidiary legislation to be tabled in the Council its position as to whether the Legislative Council has the power to amend or repeal the subsidiary legislation concerned. Whenever the Legislative Council and the Administration differ on the interpretation of an empowering provision which limits the Legislative Council's power to amend the subsidiary legislation, the Administration should inform the Legislative Council in the first instance its position with full legal reasons in order for both sides to engage in deliberations in a timely, open and transparent manner.

In the Subcommittee's view, if warranted, judicial review may be considered as a means to resolve the differences between the Legislative Council and the Administration on the power of the Legislative Council to amend or repeal subsidiary legislation or settle their disputes. The Bar is of the view that judicial determination should be seriously considered if the difference between the Legislative Council and the Administration on the interpretation of a provision cannot be resolved. Taking the controversy surrounding the Amendment Order as an example, the Administration considers the Legislative Council's resolution to repeal the Amendment Order to be lacking any legal basis, but nevertheless has decided not to seek judicial review. The Bar considers such situation unsatisfactory.

The Subcommittee points out that if the dispute is about a resolution with legislative effect passed by the Legislative Council and the Administration wishes to institute judicial review proceedings against the resolution, the question of who should be the proper respondent would need to be resolved. In this regard, the Administration has advised the Subcommittee that it does not foresee a problem and will seek legal advice as necessary if it wishes to seek judicial review against a resolution of the Legislative Council. The Subcommittee, however, considers that the Administration should thoroughly study the legal and procedural issues involved and take appropriate legislative measures, if required. The House

Committee has agreed that the matter should be referred to the Panel on Administration of Justice and Legal Services for follow-up.

President, I wish to take this opportunity to thank the Bar for its valuable views to facilitate the Subcommittee's study, members of the Subcommittee for their contribution to the work of the Subcommittee, and staff of the Legislative Council Secretariat for providing support to the Subcommittee.

DR MARGARET NG (in Cantonese): President, I wish to express some of my personal views.

In fact, as we can see, there are only a few Members in the Chamber now because they may feel relatively detached from this subject of so-called study on subsidiary legislation after the discussion just now on so many highly controversial political matters. Yet, our present study is of critical importance.

First of all, why did so many Members become interested in this subject in the first place? That was because Members thought that this Subcommittee would give them another opportunity to wrestle with the Government and see if the case on the Amendment Order could be overturned. But when Members found out that it was not the case, and the Subcommittee was formed to study matters on systems and principles, they seemed relieved and considered that they had other more important matters to attend to. Nonetheless, the making of subsidiary legislation is concerned with delegated legislative powers, that is, the powers the Legislative Council delegates to an Executive Authority to make legislation. This would involve issues such as how such delegated powers should be exercised, what principles are to be followed, and so on. Very often, our point of contention is not whether the Legislative Council has the power to scrutinize the subsidiary legislation, but the scope of empowering provisions in the relevant ordinances. That is exactly the problem with the Amendment Order.

President, we certainly understand that if the subsidiary legislation is about country parks, we cannot make amendments thereto which are absolutely unrelated to country parks. However, there are often different legal opinions in respect of the scope of empowering provisions in the principal ordinances. Hence, the scope of delegated powers given to the Executive Authority would depend on the relevant provisions in the principal ordinances. When scrutinizing the primary legislation, Members are generally less concerned about

the scope of delegated powers given to the relevant authorities, public officials or statutory bodies to make rules and regulations. However, we should be extremely cautious when enacting the legislation because such delegation has already been specified in the primary legislation. When the authority acts according to such delegation in future, we cannot say that it does not have the power to do so. Therefore, Members must ensure that the matter has been thoroughly considered.

Given the above reasons, this Report of the Subcommittee to Study Issues Relating to the Power of the Legislative Council to Amend Subsidiary Legislation is a very important report. It touches on the fundamental issue of the authority and the responsibility of the Legislative Council. Of course, we understand the crucial importance of maintaining checks and balances, as well as co-operation between the executive authorities and the legislature.

Our study is not only important, but also elusive because many legal and constitutional concepts and principles are involved, and they are not something we come across frequently in our day-to-day political arguments. I dare say that they are not something law students or even legal practitioners come across frequently. Hence, I personally think that this is an excellent opportunity for Members to learn about and reflect on how the relevant issues should be dealt with, regardless of how long we have served as Members of the Legislative Council.

President, given the complexity of the issue, the Secretariat (particularly the Legal Service Division) has prepared a detailed information paper for the House Committee in the first place, which sets out the constitutionality as well as legal principles of delegated legislative powers by the Legislative Council, the relevant precedent cases, past incidents and cases which we have dealt with, the origin of the controversy over the Amendment Order, and even potential problems which might need to be addressed in future, and so on.

President, an issue I have just mentioned is of particular significance, that is, in case the Administration considers that the Legislative Council does not have the power to amend certain subsidiary legislation, we can only take it or leave it, or we do not even have the power to repeal it; yet what if we consider that we have the power to do so, or we have different views on the relevant scope of power, what should the disagreement be handled?

Of course, the ideal approach is that both sides can state their different views as early as possible, so that they can arrive at a consensus through communication and discussion. But it is not always possible to arrive at a consensus because legal advisers of both sides have independent views on the basis of their understanding of the legal viewpoints. Under such circumstances, what should we do to deal with the matter? Can we allow the uncertainty to persist?

Let us review the actions taken by the Administration in the previous case of the Amendment Order. Noting the Legislative Council's proposal to repeal the Amendment Order, news had been spread around by the Administration that should the Legislative Council insist on taking this course of action, the department concerned would seek judicial review, as if it was a threat. In fact, as a legal practitioner, I never consider judicial review a threat; on the contrary, I think both sides should seek guidance from the Court because it is a responsible action to be taken. The Bar also expressed great support for the Administration's proposal to seek judicial review because it was natural to seek judicial determination in case both sides had different legal views. Nevertheless, the department concerned did not want this to happen and refused to follow up on the matter.

If we want the Administration to take follow-up actions, we must first solve the question of who should be the respondent in case of a judicial review. Should Secretary WONG Yan-lung institute a judicial review proceeding, who should be the respondent or the so-called defendant? Would all Members of the Legislative Council be the respondents, or who should be the respondent? That is a question which must be resolved. In fact, this question has existed all along, and it is something we must resolve, even by enacting legislation. Hence, in view that these issues with important implication require our follow-up, how come Members of this Council have shown so little interest?

President, some time earlier, we discussed an issue of great interest to both the public and Members of this Council, that is, whether the remuneration of Members should be increased or how much Members are "worth"? Ms Emily LAU who sits in front of me all along holds that Members of the Legislative Council should serve on a full-time basis. However, there are other views that members of the legislature should not be prevented from having outside employment. For instance, according to the Nolan Principles I mentioned this

morning, the House of Commons would be less effective if all Members of Parliament were full-time professional politicians.

I personally do not see the need to differentiate between full-time or part-time Members of the Legislative Council. We can only ask ourselves whether we are competent Members, and in order to be competent, we must learn to be a Member. We must learn about the principles of legislation as this is an extremely important subject.

President, notwithstanding the importance of political arguments, we have a duty towards our system as well as constitutional development. This report is important because we have clarified certain constitutional issues. I hope that in future, other Members will follow up on this matter on the basis of this report. Here, I would like to extend my special thanks to the Secretariat.

Thank you, President.

Dr Margaret NG moved the following motion:

"That this Council notes the Report of the Subcommittee to Study Issues Relating to the Power of the Legislative Council to Amend Subsidiary Legislation."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Dr Margaret NG be passed.

SECRETARY FOR JUSTICE (in Cantonese): President, I would like to extend my thanks to the work of the Subcommittee and to Dr Margaret NG, Chairman of the Subcommittee, for raising the present motion debate.

As at 31 January 2012, there were 1 426 pieces of subsidiary legislation made under 693 principal Ordinances in Hong Kong. These figures testify the importance of subsidiary legislation as an integral part of Hong Kong's legislative practice and our body of law. They also speak to the need to have a proper understanding about the use of subsidiary legislation. In the past year, the

Subcommittee had conducted work on the power of the Legislative Council to amend subsidiary legislation and related matters. The discussions have enriched the understanding of the Legislative Council and the Administration on this subject, and enhanced communications in areas where there may be different views.

The practice of the legislature delegating the power to make subsidiary legislation to another body is a long standing one. It stems from pragmatic considerations, serving the need to promote efficiency, so as to enable the legislature to prioritize its resources by focusing on issues of policy importance, leaving detailed and technical matters and matters which require flexibility and frequent or urgent changes to be set out in subsidiary legislation.

The delegation of power to make subsidiary legislation does not mean the Legislative Council loses control over the subsidiary legislation. The exercise of delegated power to make subsidiary legislation remains subject to effective checks. I must emphasize that the Administration, when making subsidiary legislation, has to act within the scope of its delegated authority, as laid down in the principal Ordinance. The exercise of delegated legislative power is amenable to judicial review. Moreover, the subsidiary legislation may be subject to vetting by the Legislative Council in accordance with the Interpretation and General Clauses Ordinance (Cap. 1) and the provisions of the empowering Ordinance.

President, inevitably, there may be occasions where the Administration and the Legislative Council have different views about the interpretation of an empowering provision in an Ordinance. The Administration will enhance communications with the Legislative Council and its legal advisers in such cases so that the differences in legal views can be deliberated and discussed in a timely, open and transparent manner. At the same time, the Administration remains committed to working closely with the Legislative Council and its legal advisers in order to reach consensus on issues before the Legislative Council.

President, I will end here. I will respond after hearing the views of Members. Thank you.

MR LAU KONG-WAH (in Cantonese): President, I speak as a member of the Subcommittee, and I would also express the views of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB).

The Subcommittee has worked for more than one year under the leadership of Dr Margaret NG. Of course, she has seemingly expressed some disappointment in her speech because only a few Members were in the Chamber, perhaps suggesting that not too many Members were concerned about or actively involved in this matter. Nonetheless, I wish to share with her that it is actually nothing special. As Dr Margaret NG has just said, Members are less concerned about this matter when compared with certain political disputes. But looking back, this matter was raised as a result of the serious political dispute which occurred at that time. That is exactly what had happened. But after more than one year of discussions between the two sides, various suggestions have been made; and as stated by the Secretary, even in cases involving political disputes, it is possible for both sides to reach a mutually acceptable solution through negotiation and discussion on various constructive suggestions, so that a balance is achieved and guidelines are established for future work. I think it accords well with the principle maintained by this Council as well as Dr Margaret NG that the executive authorities and the legislature can exercise checks and balances over each other while maintaining mutual co-operation. I believe that this was also the spirit held by members of the Subcommittee in the hope of finding a way out.

I still recall the intense atmosphere of confrontation between the executive authorities and the legislature then — a vivid memory which I think is shared by all Members. At that time, the Legislative Council proposed to amend the Amendment Order made under the Country Parks Ordinance, but the Government considered that the Legislative Council did not have the power to do so. The Legislative Council queried why the Government considered that the Legislative Council did not have the power to amend the legislation, and opined that the Administration should not tighten the scope or power of the Legislative Council to make legislative amendments. Some commentators even suggested that judicial determination on the case might be required. Never in history had the executive authorities, the legislature and the Judiciary worked together over similar cases. I clearly recall that when the motion was eventually put to vote in the Legislative Council, almost all Members considered that the Legislative Council had this power except two Members, Mr LAU Kong-wah and Mr LAU

Wong-fat, who supported the Government as we both are Members of the Executive Council.

This incident makes a strong impression on me because such intense and confrontational political disputes may not necessarily be a good thing for Hong Kong. After the establishment of the Subcommittee, a large amount of research had been done by the Secretariat, which formed the basis of serious discussion by members of the Subcommittee. Nonetheless, I consider that the rationale held by the Government then might not be entirely wrong. But from the perspective of the Legislative Council, it is normal to seek the greatest scope of power. Regarding the power to amend legislation, it would be ideal if Members are clear about the point of contention at the outset. That is the most important starting point as it is our hope to improve the relationship between the executive authorities and the legislature.

Various detailed recommendations made by the Subcommittee have been set out in the report. But the most crucial recommendation is that when presenting motions to the Legislative Council to amend subsidiary legislation, the Government should state clearly in the first paper its position as to whether the Legislative Council has the power to amend the subsidiary legislation concerned. This matter should be stated clearly in the first instance so that Members of the Legislative Council are aware of their authority at the outset.

In fact, different subsidiary legislation is to be dealt with differently, and it is quite understandable. Certain pieces of subsidiary legislation are not subject to amendment by the Legislative Council, but others are. If there is any ambiguity, the Department of Justice would give prior notification to the Legislative Council as well as to the Legal Adviser of the Legislative Council. I consider such an arrangement fair and proper.

Of course, if any amendment is proposed by Members during the course of scrutiny, the Government should relay its position to the Legislative Council and discuss with the Legal Adviser of the Legislative Council as soon as possible. Certainly, the matter should ultimately be handled by the subcommittee formed to scrutinize the subsidiary legislation concerned. I think if these two steps can be achieved, political disputes in this regard should be minimized in future.

President, last but not least, the Department of Justice should carefully ascertain the powers of the Legislative Council, as well as its powers to amend subsidiary legislation because any matter brought before the Legislative Council can become politicized or even muddled. Hence, it would be beneficial for both sides if the position can be clarified internally by the Government as well as the Department of Justice before the relevant motion is presented to the Legislative Council.

Thank you, President.

MS EMILY LAU (in Cantonese): President, I speak in support of Dr Margaret NG's motion. Also, I would like to thank Dr NG for competently leading the Subcommittee so that we can complete our report so smoothly. Meanwhile, I would also like to thank the Secretariat staff and the Legal Adviser for their assistance. They have made those pretty complicated and difficult issues comprehensible to the public and Members.

President, just now Members mentioned the extension of landfill proposed under the Country Parks (Designation) (Consolidation) (Amendment) Order 2010 (Amendment Order). President, I am well aware of the issue as the landfill falls within my constituency. At that time, people were outraged by the proposed extension of the South East New Territories Landfill in Tseung Kwan O as the Government has yet to find a solution to the problem of odour after all these years. Also, they considered that the trucks carrying rubbish to the landfill have caused great nuisances to them. Notwithstanding that, the Government proposed to extend the landfill by 5 hectares all of a sudden. This is the case and I remember that the President and the Secretariat had discussed the issue in a number of meetings.

The issue had later almost evolved into a constitutional conflict. Although a crisis had yet to be arisen, conflicts had certainly been resulted. Why? During the discussion, we had suggested to repeal the Amendment Order if it was proved infeasible. And it was only until then that the authorities suddenly told us publicly that we did not have the power to do so. I still remember that Secretary Edward YAU had invited some reporters, but not Members, to visit the landfill with him. The way the Government handled the case had actually outraged Legislative Council Members. In the end, the

Government said that there was no room for discussion and the Legislative Council was not empowered to repeal the Amendment Order. This had aroused widespread controversy.

The case was subsequently "settled". The word "settled" means that the Government could not carry out the proposed extension. The Legislative Council then revisited how the case should be followed up and how to prevent the recurrence of similar disputes. I believe members of the Subcommittee were calm during the meetings and they unanimously agreed that in case the Government submits any paper on the amendment of subsidiary legislation in the future, it should state clearly in the first instance that the Legislative Council does not have the power to repeal any order, if that is the case. It should make itself clear in the first place and provide the relevant justifications, instead of suddenly announcing that the Legislative Council does not have the power to repeal an order during the deliberation when there is public uproar. This is unacceptable. President, with regard to this case, I think that the Council has come to a consensus. Even Mr LAU Kong-wah, who is also an Executive Council Member, has just spoken and agreed that this approach is reasonable and appropriate.

President, I notice that when the Secretary for Justice delivered his brief speech earlier, he highlighted that we have to deal with 693 principal Ordinances and 1 426 pieces of subsidiary legislation, meaning that we have a lot of work to do. Also, he stressed that we must make effective use of our time, which we totally agree with. However, I would like to ask the Secretary or his colleagues to state specifically if the Legislative Council has the power to repeal legislative proposals to amend subsidiary legislation when such legislation is tabled at this Council.

President, honestly speaking, if the Legislative Council is told in the first place that it does not have the power to repeal the proposed amendment to the subsidiary legislation when the relevant paper is submitted to this Council, I am afraid that we would immediately rise in opposition. However, if certain subsidiary legislation allows the Government to do so, this should be stated in the document as a reminder to us when we examine the legislative proposals. In case there are ambiguities, justifications must be provided for our consideration.

Another point is concerned with the judicial review. Earlier, Dr Margaret NG, Chairman of the Subcommittee, also highlighted one point: Who will be the respondent in a judicial review case? Up till now, it still remains an unsolved case. Therefore, Dr NG suggested, and also stated in the report, that this should be included in the future legislation. In case the authorities seek judicial review against the Legislative Council in the future, we would know what to do.

These issues should be dealt with, President, and it is hoped that the authorities Honestly speaking, they are now besieged on all sides and I wonder which issues they should tackle first. Some officials complained to me outside the Chamber about their heavy workload and hard work. We do appreciate that. Frankly, this is attributable to the Chief Executive. And yet, the Secretary should understand that the issue must be addressed, no matter how painful it would be. Otherwise, conflicts will arise again when another subsidiary legislation is tabled in the future, which may lead to even more serious problems. Therefore, I hope that we can sincerely work together in some cases. We have completed our report and we hope that the authorities will expeditiously consider it and make responses, with a view to settling the issue as early as possible and preventing the recurrence of such unhappy incidents.

I so submit.

DR RAYMOND HO (in Cantonese): President, the Subcommittee to Study Issues Relating to the Power of the Legislative Council to Amend Subsidiary Legislation (the Subcommittee), of which I am a member, has released a report. I agreed that Dr Margaret NG, Chairman of the Subcommittee, is very competent and efficient, and she has played an appropriate role. I am also very thankful to the Secretariat staff for providing us with lots of background information about this important issue within such a short period of time. After carefully considering the relevant issue, the Subcommittee has put forth some recommendations.

The formation of the Subcommittee can be traced back to the resolution passed at the Council meeting on 13 October 2010 to repeal the Country Parks (Designation) (Consolidation) (Amendment) Order 2010 (Amendment Order), which had led to conflicts between the Government and the Legislative Council. It was originally an issue about environmental protection, but had later evolved to become a constitutional crisis. As Mr LAU Kong-wah has said earlier, the

relationship between the executive authorities and the legislature were very tense at that time, with two sides at loggerheads. This is the true picture. Being a member of the environmental profession, I am gravely dissatisfied with the Government's proposed extension of the landfill to the country park. However, the Government opined that, in connection with the amendment of that subsidiary legislation, the power of the Legislative Council should not exceed that of the Chief Executive. We considered that such attitude of the Government had completely neglected the constitutional status of the Legislative Council. According to the Basic Law, the Legislative Council shall be the legislature of the Hong Kong Special Administrative Region. Article 73 of the Basic Law stipulates the powers and functions of the Legislative Council and *inter alia*, item (1) provides that "To enact, amend or repeal laws in accordance with the provisions of this Law and legal procedures". The Government had tried to push forward the Amendment Order according to their construed legal basis, and both sides had sought legal advice. The Government's act had ruined the mutual trust between the executive authorities and the legislature. This is regrettable.

Regarding the conflicts arising from the proposed repeal of the Amendment Order, the Subcommittee has carried out an in-depth study of the issue within its terms of reference. The Subcommittee has, *inter alia*, thoroughly considered local and foreign cases, which include the practice in the United Kingdom, Australia, Canada and New Zealand concerning the delegation of the power to make subsidiary legislation. On the other hand, the Subcommittee has also invited legal professional bodies and legal academics from universities to express their views. After working for a year or so, the Subcommittee has made some recommendations. As Dr Margaret NG has already briefed Members on the recommendations, I am not going to repeat.

One of the recommendations is that the Government should enhance its communication with the Legislative Council, which I totally agree. In fact, as I have previously said, the communication between the Government and the Legislative Council has already affected the working relationship between the two parties. I also agree with another recommendation made by the Subcommittee, which suggests that to eliminate possible problems, the Legislative Council should consider carefully and act cautiously with regard to the level of scrutiny it wishes to preserve over the subsidiary legislation that would be made. As to the question of who should be the proper respondent arising from the consideration of using judicial review as a remedial measure, I

think this Council should seriously follow up on the matter or identify the best solution for Members' careful consideration, further discussion or examination.

Thank you, President.

MS CYD HO (in Cantonese): President, I am very grateful to Dr Margaret NG, the Bar Association and the Legislative Council Secretariat for their strenuous efforts in compiling this report, which every Legislative Council Member should read.

The origin of the issue is that a subcommittee was formed in July 2011 to scrutinize the Government's proposed Country Parks (Designation) (Consolidation) (Amendment) Order 2010 (Amendment Order). While some members had, at the outset, proposed to repeal this Amendment Order, the Government did not inform us that the Legislative Council actually did not have the power to amend this subsidiary legislation. We were only informed in October 2011 when the authorities noticed that the Legislative Council had secured enough votes to repeal this Amendment Order. We had the impression that the executive authorities were bad losers, and had their power by imposing restrictions on the legislature on all fronts.

In fact, this is not the first time the executive authorities have imposed restrictions on the power of the legislature. Prior to 1997, Members were allowed to move private bills, the implications of which can still be felt today. Although the Equal Opportunities Bill drafted by Ms Anna WU, for instance, was not allowed to be tabled at that time, the Government was forced to submit the same bill. Ms Christine LOH had also tabled a private bill on the restriction of reclamation. The relevant legislation is still in force today, which requires that all reclamation works must go through very stringent approving and vetting procedures. Furthermore, a private bill on collective bargaining moved by Mr LEE Cheuk-yan had also been passed. Unfortunately, it was repealed in the first week of July 1997.

After 1997, the power of Members to introduce private bills in accordance with Article 74 of the Basic Law has been greatly reduced. Worse still, four barriers have been imposed under this provision, namely the bill should not relate

to public expenditure or political structure or the operation of the government, and it must obtain the written consent of the Chief Executive. As a result, it is downright impossible to introduce private bills, with the exception of bills introduced by the governance structure of universities with the consent of the Government.

The authorities have also advised that the power of the Legislative Council to amend the law is subject to Article 74 of the Basic Law. Here, I must point out that when the Government introduced the bill on Legislative Council elections in 1999, Mr Eric LI proposed to amend the definition of the Social Welfare Functional Constituency (FC) by replacing its corporate votes with individual votes. The atmosphere was very tense at that time as even Members from the pro-establishment camp had to lobby the support of pan-democratic Members for this amendment concerning FCs. One of the reasons is that in case the relevant amendment, which the Government considered to have breached the constitutional barriers prescribed under Article 74 of the Basic Law, was passed, the Government might apply for judicial review and therefore seek the Court's clarification on the power of the Legislative Council to amend the law. However, unfortunately, the amendment had failed to get passed.

There are now two scenarios: If there is a need to propose legislative amendments which the Government considers acceptable, it will simply take over and move the relevant amendments under its name. We have no choice as amendments moved by the Government are not required to go through the separate voting system. Another extreme is that the Government will forcibly negative all amendments, as in the case of the Bill on interception of communications. Since the Government did not want to see the passage of the amendments of that bill, it therefore tried to lobby by deploying its "paparazzi" so that even amendments concerning grammatical revisions were not passed.

In fact, there is also a trend that the Government is abusing the use of subsidiary legislation. It has resort to subsidiary legislation for even pretty important issues, such that important decisions are announced by way of notices made by the Chief Executive. For instance, the Minimum Wage Ordinance stipulates that the provision on when the Minimum Wage Commission (the Commission) should make a report and its obligation to recommend the statutory minimum wage rate should be made by way of subsidiary legislation. However, the worst of all is that the Chief Executive may prescribe, in the subsidiary

legislation by way of a Notice, when the minimum wage will be implemented and even the minimum wage rate. In so doing, subsidiary legislation can actually overturn the work of the Commission and override its power. Therefore, in case the Government abuses the power of making subsidiary legislation, Members are obliged to carefully examine the subsidiary legislation concerned.

We have come across such extreme cases recently. Some bills committees have indicated their wish to scrutinize the relevant subsidiary legislation even before it is drafted and enacted, for fear that the Government might abuse the law once the principal ordinance is passed. A recent case is the Residential Care Homes (Persons with Disabilities) Bill passed immediately before the summer recess of 2011. We had requested to examine the relevant Code of Practice before the principal ordinance was passed. This reflected the lack of mutual trust between the executive authorities and the legislature. We had even scrutinized the application forms. The bills committee chaired by Dr Margaret NG, which examined the power of attorney relating to the properties of the elderly people, had also scrutinized various forms. The Bills Committee on Guardianship of Minors (Amendment) Bill 2011 chaired by me, on the other hand, had also scrutinized various forms. We found that the forms are really deficient and refinements have been made after consideration.

If the executive authorities are willing to perform the constitutional obligation of being accountable to the legislature, and frankly discuss the relevant rules with Members, the situation will certainly be improved and thus bring benefits to members of the public. However, if the executive authorities impose barriers on all fronts, we may resort to the Court in the end and thereby spark a constitutional crisis. Here, I would like to call on the executive authorities to be very cautious in the delegation of power. They should not hastily delegate power, as in the case of the Provisional Legislative Council, which had delegated its power upon the passage of the First, Second and Third Readings of the United Nations Sanctions Bill in one go. I also urge the Government to exercise more self-restraint and avoid abusing the use of ambiguous, unidentified and controversial provisions. Thank you, President.

MR WONG YUK-MAN (in Cantonese): President, I am grateful to Dr Margaret NG, Chairman of the Subcommittee, for presenting this report today.

As a matter of fact, the legislative powers of the Legislative Council as the legislature of the Hong Kong SAR are marred by both innate and acquired deficiencies, with the latter created by Members of this Council. Given the diametrically different nature of the two groups of Members in the Legislative Council, can each Member well and truly perform the role of the people's representative? I do not think so really. That is because *bona fide* representatives of the people should be elected by the people to debate political issues, enact laws and monitor the Government on their behalf. Those are the requisite powers and functions of any member of any legislature. Yet our legislative powers are defective.

The report today as well as the initial controversies over the Amendment Order are further testimony that the legislative powers of the Legislature of Hong Kong — the Legislative Council of the Hong Kong SAR — are defective. Any legislature should first and foremost have the powers to make laws, raise questions, manage the budget and give consent. Of these four basic powers which the legislature must have, the power of legislation is of course the most important. Most of the laws in Hong Kong are proposed by the Government and then passed by the Legislative Council by a majority of Members. Given that Members from the pro-government camp now take up a majority of seats in the Legislative Council, all bills proposed by the Government will definitely be passed in the Council. If Members representing the people want to introduce their own bills (that is, private bills), they will be subject to the restrictions imposed by Article 74 of the Basic Law; and even if they manage to introduce the bills successfully, such bills will be subject to separate voting. Hence, our legislative powers have already been put under numerous restrictions, both in principle and constitutionally.

In fact, the limited legislative powers left of the legislature are further undermined by the existing scrutiny procedures of subsidiary legislation. The scrutiny procedures of subsidiary legislation are mainly provided in the Interpretation and General Clauses Ordinance (Cap. 1), *viz* negative vetting under section 34 and positive vetting under section 35. Regardless of whether the positive or negative vetting procedures apply, the Legislative Council may by resolution amend the subsidiary legislation concerned, and the term "amend" includes repeal, add to or vary.

However, certain subsidiary legislation is not subject to section 34 or section 35 of Cap. 1 if it has been expressly provided under the principal ordinances concerned. This effectively means that the Legislative Council has no power to vet or amend these subsidiary legislation. Under the circumstances, the Legislative Council can only expand its power to amend the subsidiary legislation by amending the empowering provision under the principal ordinance concerned. But given the provisions in Article 74 of the Basic Law, it is very difficult for the Legislative Council to introduce an amendment bill for the purpose. Hence, the procedures specified under sections 34 and 35 of Cap. 1 have been precluded, such that the Legislative Council has absolutely no means to scrutinize the exercise of delegated powers to make subsidiary legislation. That is the current situation.

All in all, the reasons for this problem are two-fold. First, the Legislative Council did not exercise effective gate-keeping in the past. When scrutinizing the delegation of powers to make subsidiary legislation under the principal ordinances, no careful consideration had been given to proposals for including in the principal ordinances concerned a provision that section 34 or section 35 of the Interpretation and General Clauses Ordinance do not apply, resulting in hasty agreement to the Government's proposals to exclude section 34 or section 35. In this regard, Members should consider similar proposals in future with extreme care; and the Secretariat as well as the Administration should remind Members specifically in the course of deliberation on the bills.

The restrictions imposed by Article 74 of the Basic Law on the introduction of bills by Members have stripped the Legislative Council its actual powers to make laws while only an empty name of legislation is left. Now, we are not even allowed to reclaim the powers delegated to the Executive Authority to make subsidiary legislation. As state in the report, in the event of similar differences between the two sides, the Legislative Council and the Government should enhance their communication over the relevant issues, so as to identify possible remedies. If warranted, judicial review may be considered.

Regarding the question of who should be the proper respondent in case of judicial review sought by the Administration, the Subcommittee did not accept the Administration's claim that it did not foresee a problem, and requested the Administration to thoroughly study the legal and procedural issues involved as soon as practicable. In this regard, the Administration should inform the

Legislative Council the relevant timetable of study. If the Government insists that there is no question about the identity of the respondent, it should provide its full reasons to the Legislative Council for consideration. I personally think that this recommendation is practicable.

Just now, Dr Margaret NG lamented that only a few Members had stayed in the Chamber to speak on this motion. So, I respond to her call and speak. Although I can never compare with her in terms of her expertise on this subject matter, I must make myself clear, right? Regardless of whether we are discussing the matter from the perspective of principles or technicalities, the conclusion is always the same, and that is, our legislature is "crippled".

Thank you, President.

MR LEUNG KWOK-HUNG (in Cantonese): President, it goes without saying that the legislature is crippled. Article 74 of the Basic Law is unprecedented in the sense that only minimal powers of legislation are left to be exercised by Members of the Legislative Council. Let me cite the exact provision as follows, "Members of the Legislative Council of the Hong Kong Special Administrative Region may introduce bills in accordance with the provisions of this Law and legal procedures. Bills which do not relate to public expenditure or political structure or the operation of the government may be introduced individually or jointly by members of the Council. The written consent of the Chief Executive shall be required before bills relating to government policies are introduced."

The provision is drafted as such to mask the ugly truth. Even though the "3+1" criteria are listed separately, the legislative power to introduce private bills is actually vested with the Government. Members are allowed to introduce private bills so long as they do not relate to public expenditure, political structure or the operation of the government. However, are those not the three areas of work which the Legislative Council should be concerned with? We represent the people to engage in political debates and take up various issues with different persons. We believe that fairness will emerge from such debates, views can be changed, and reasonable people will have the support of their like.

Our powers to make laws, raise questions and give consent have all been "neutralized" by Article 74 of the Basic Law. Furthermore, regarding the

so-called "bills relating to government policies", the scope of government policies is unlimited. Article 74 of the Basic Law has effectively ruled that the Legislative Council is a rubber stamp, with the executive authorities usurping the legislature's role of monitoring and taking away its power of legislation. However, may I ask, if the relevant bills are introduced by the Government, can we make amendments?

I have lost \$900,000 over this point of contention. In 2005, I engaged Mr Martin LEE, Senior Counsel, to represent me in a legal case, and I lost \$900,000. I wished to contend this point about whether the Legislative Council could make amendments, even though it was prevented by the Government to make laws? Could we make amendments to the bills introduced by the Government which relate to these four areas? Finally, the Court ruled that no amendments could be made because there were clear stipulations in Article 74 of the Basic Law. It has been this way in the past, and will remain so in future. Given the straitjacket imposed by Article 74 of the Basic Law, so long as the Government hails those banners and claims that public expenditure, political structure, the operation of the government or government policies are involved, we are not only prevented from making laws, but also prohibited from introducing slight amendments to the legislation introduced by the Government. In that case, what is left to be done by the Legislative Council? President, I honestly have no idea what can we do by sitting in this Chamber? If we

PRESIDENT (in Cantonese): Mr LEUNG, we are now discussing the Report of the Subcommittee to Study Issues Relating to the Power of the Legislative Council to Amend Subsidiary Legislation.

MR LEUNG KWOK-HUNG (in Cantonese): I know, but this preamble is necessary.

We cannot even reclaim our residual power over subsidiary legislation as further restrictions have been imposed by the Government. Had I known better and sought a judicial review again, I think I probably stand to lose about \$1.8 million this time because the "Royal Counsels" engaged by the Government — they should rightly be called "Royal Counsels" now, not Senior Counsels, because these legal professionals willingly act as "legal assassins" for the

Government — are demanding increasingly higher charges. Knowing our intention to institute legal proceedings, the Government will definitely seek the help from barristers who charge a higher fee.

As we all know, under the common law, it is useless to win once because the same case can be put on trial at three different levels of courts. Even if the Court rules in a person's favour the first time, he is not "off the hook" yet. If he loses the second time, he may have to consider filing bankruptcy. Even if he wins twice, there is still the possibility of a third trial, and if he loses the third time, or if it is me, I will have to say goodbye to the President because I do not have the money to pay for compensation. In that case, I will have to file bankruptcy, and I am no longer qualified for the office of a Member of the Legislative Council once I declare bankruptcy. Hence, ladies and gentlemen, the Government's act is so barbarous. Our scrutiny of subsidiary legislation, regardless of whether they are subject to negative or positive vetting procedures, is really of a residual nature. Yet the Government still wants to reclaim this defective power of ours. In that case, what role does the Government want Legislative Council Members to play?

Now is the time for retribution. As we cannot exercise our power of legislation, we can resort to our power of impeachment. We have the power to monitor the Government and we can impeach the Chief Executive as we have nothing else to do because all our powers, including those of making laws, or even making amendments thereto, or scrutinizing subsidiary legislation subject to negative or positive vetting procedures, have all been taken away. We have only one power left to exercise. When the Government's performance is highly unsatisfactory, we can exercise our power of investigation, that is, the power conferred by the Legislative Council (Powers and Privileges) Ordinance to conduct investigations over the Government. Given the derogatory state of the Government now, we must resort to our superior weapon, *viz* the power of impeachment. We are forced to take this course of action by the Government. While we originally intended to do something else, we were prohibited to do so by the Government. The Government has manipulated the entire legislative process and distorted this Council by the separate voting arrangement, so that we cannot do what we want. Now there is retribution. The Legislative Council has suffered from the barbarous act of the Government over the past decade or so, and we have been treated like corpses. Now the pustule finally bursts.

Today, I heard the Chief Executive say, "Sorry, I have all along abided by these standards, yet they may be different from public expectation now." Buddy, the passages from *Mencius* quoted by Mr WONG Yuk-man and me today are about the concept of people-orientation, not democracy. In other words, those are the words of caution from a scholar to a ruler that he must have the people's livelihood and well-being in his heart no matter what he does. Even if we are not talking about democracy, the Government still fails in this regard. The passages Mr WONG Yuk-man and me read from *Mencius* today are about the concept of people-orientation. What shall we do if the Government cannot even attain people-orientation?

All our powers have been deprived. Hence, President, what is the lesson to be learnt? We can never trust a government. If we cannot even trust a government formed by democratic elections, how can we trust a government not formed by democratic elections? We can only have loads and loads of distrust for this government, and this is the fundamental principle of political democracy. Man is by nature evil.

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

(No Member indicated a wish to speak)

SECRETARY FOR JUSTICE (in Cantonese): President, first of all, apart from Dr Margaret NG, I also wish to extend my thanks to the Legislative Council Secretariat and the Legal Adviser of the Legislative Council for their extensive research and work conducted prior to the compilation of this report. As Dr Margaret NG has said, the report touches on various issues of legal consideration that are extremely important. As I mentioned earlier, the report can facilitate the forging of consensus between the Legislative Council and the executive authorities. A case in point is the mutual agreement set out in part (a) of paragraph 5.3 under the report's recommendations, that is, since October 1999, the Administration has adopted the approach whereby in cases where there may be doubt as to the nature of an instrument to be made pursuant to an ordinance, an express provision would be included in the primary legislation declaring or clarifying the character of the instrument as to whether or not it is subsidiary legislation. If the Administration's view is accepted by the Legislative Council,

the express provision in the enacted ordinance can be deemed to illustrate the legislative intent of the character of the said instrument. Both the Administration and the Subcommittee consider this a good practice which should be continued. I think this is a good example of how the both sides can come to consensus.

Regarding other recommendations in the Subcommittee's report, we are aware of the contents of the report. We are now studying the report in detail and will give a formal reply later.

In respect of other matters just raised by Honourable Members, I wish to highlight the recommendation made by the Subcommittee in its report that whenever the Legislative Council and the Administration differ on the interpretation of a statutory provision, the Administration should inform the Legislative Council in the first instance its position with full legal reasons. President, I concur with this practice in principle. If both sides differ on the interpretation of a provision, the Administration should strive to inform the Legislative Council as early as practicable the Government's interpretation of the relevant provision with full legal reasons, in order that both sides could engage in deliberations in a timely, open and transparent manner. We concur with this principle.

Separately, Dr Margaret NG and other Members expressed concern about the way forward in case both sides could not reach an agreement over their differences, and whether consideration should be given to resolving the matter through a judicial review as recommended in the report. Of course, we note the contents of the Subcommittee's report in this regard, as well as the views of the Hong Kong Bar Association (the Bar). If the differences between the two sides cannot be resolved after all, we do not rule out the possibility of seeking judicial determination on the appropriate matters when necessary. Nonetheless, this should of course be the last resort. Considering the different views held by both sides in the landfill incident, is a judicial review the best option? Just now, Mr LAU Kong-wah also queried whether judicial determination of disputes was the best way forward, and there are also views that we should not rashly take a case to court. In respect of the landfill incident, President, you may recall that the then Chief Secretary for Administration had indicated publicly that in the end, the Administration believed that seeking judicial review was not the best way to resolve the matter, and one of the reasons was that we valued the good

relationship between the executive authorities and the legislature. Furthermore, in the landfill incident, after taking all matters into consideration, the Government decided to dispense with the use of the 5 hectares of country park land as landfill site. Hence, there was no longer any urgency to deal with the relevant legal issues.

In this regard, we will carefully and cautiously consider other options before seeking a ruling from the Court. Of course, if that is the course we must take, we will carefully consider all relevant issues, including various judicial and procedural matters.

Moreover, it was also mentioned in the report's recommendations that in the eventuality of a judicial review, that is, assuming that the Administration seeks a judicial review against the Legislative Council, who would be the proper respondent? Matters like these would require in-depth study. We will of course respect and carefully consider the views of the Subcommittee.

Nonetheless, I would like to explain the position stated by the Government previously. President, while we believe that the chance is slim, if such an eventuality does occur, the question of who should be the proper respondent would depend on the nature of the point of contention, as well as the relevant subject matters.

President, judicial review proceedings involving the Legislative Council or persons related to the Legislative Council are few and far between. Nonetheless, President, I think you will recall that in some of these cases, the decision of who should be the respondent is related to the subject matter and point of contention of the cases. For example, if an Honourable Member seeks judicial review of the decision to permit the motion debate relating to his disqualification as a Member of the Legislative Council to be put on the Agenda of a Council meeting. President, I will only talk about the nature of the case without mentioning any name. In the end, the President of Legislative Council is named the respondent. In another case which involves the taking of the Legislative Council Oath administered by the Clerk to the Legislative Council, the respondent is the Clerk to the Legislative Council. Moreover, there are cases involving the powers of select committees of the Legislative Council to summon witnesses or demand the production of papers. In those cases, members of the relevant committees, the President of Legislative Council, and so on, will be named as respondents. Hence, the Administration takes the view that the question of who should be the

proper respondent will depend on the nature of the point of contention, as well as the relevant subject matters. If that is the course we must take, we will definitely seek all necessary legal advice in a proactive manner, so as to come up with the most appropriate decision. But so far, it is not our wish that we must take this step to resolve the relevant matters through judicial means. Speaking from experience, we believe that both sides can strive to resolve the matters through mutual consensus.

President, I want to briefly respond to certain matters raised by individual Members just now. Both Dr Raymond HO and Ms Cyd HO said that in the landfill incident, they considered that the Government had ignored the powers of the Legislative Council, and undue restrictions had been imposed on the powers of the Legislative Council to scrutinize subsidiary legislation, as well as in other matters. I would like to give a response. President, the Legislative Council of course has the power to make laws as provided under the Basic Law. Under Article 73(1) of the Basic Law, the powers and functions of the Legislative Council are to enact, amend or repeal laws in accordance with the Basic Law, and such powers and functions must be exercised in accordance with the provisions of the Basic Law and legal procedures. Those are the stipulations in Article 73. When making subsidiary legislation, the Chief Executive in Council, public officers, professional bodies and other bodies (that is, these bodies which already have the delegated powers to make subsidiary legislation) are of course subject to the provisions of the relevant primary legislation enacted by the Legislative Council. Regarding the power to amend subsidiary legislation as just mentioned by some Members, section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) is of particular relevance as it specifies the scope of the Legislative Council's amendment powers in respect of subsidiary legislation. The expression of "in any manner whatsoever consistent with the power to make such subsidiary legislation" in section 34 of Cap. 1 also expressly delimits the extensive amendment powers of the Legislative Council in respect of subsidiary legislation. The objective is to ensure that the power to make subsidiary legislation should not be exercised by any branch of the government, including the legislature, in any manner which is inconsistent with the primary legislation.

President, I think there is not much dispute in this regard. In the landfill incident, the major point of contention was not about issues of the overall framework. Instead, the crux was the interpretation of the relevant provisions in the primary legislation, *viz* the Country Parks Ordinance. While we already have a consensus on the overall constitutional framework in principle, questions

may arise for individual ordinances in respect of the interpretation of the restrictions imposed by the primary legislation (that is, the power of making subsidiary legislation of the delegate), which will correspondingly affect the amendment powers of the Legislative Council in its scrutiny of the subsidiary legislation. I think I need not repeat our detailed legal reasons here for they have been set out clearly in the report. Nonetheless, I wish to clarify that the problems in the previous incident are not major disputes of constitutionality. They only relate to our differences in the interpretation of individual provisions.

President, Ms Cyd HO has expressed the view that the Government might have abused the use of subsidiary legislation. I would like to point out that in formulating the legislation, the Legislative Council should consider and determine whether individual legislative proposals should be part of the principal ordinance or should have effect in the form of subsidiary legislation when it first enacted the principal legislation. In this regard, certain principles have already been set out in the report in detail, and both sides have consensus in this respect to a very large extent. President, I do not want to repeat the relevant information which has been agreed by other sides. Both sides agree that there is a need to make subsidiary legislation and the considerations include the need to promote efficiency and save time for the Legislative Council, the detailed and technical nature of the rules, whether the rules require constant updating, or whether there is emergency in the circumstances. These considerations are the same as the practices adopted by other common law jurisdictions, and there are even more pieces of subsidiary legislation in the United Kingdom. I will not repeat the basic factors of consideration when determining whether individual legislative proposals should be part of the principal ordinance or should have effect in the form of subsidiary legislation, as they have already been set out in the report.

President, through this report, the Legislative Council and the Administration are able to reach consensus to a certain extent over some fundamental principles. I only want to point out that this report is quite valuable as it serves to buttress our consensus over many general principles, and it brings out certain issues which we consider we should address. President, that concludes my speech, and I am sorry that I cannot respond to respective issues raised by individual Members, which are outside the scope of this report or unrelated to subsidiary legislation.

President, I so submit.

PRESIDENT (in Cantonese): Dr Margaret NG, you may now reply and you have 11 seconds.

DR MARGARET NG (in Cantonese): President, I wish to thank the six Members who speak on the motion, as well as the Secretary for putting forward so many invaluable views. The Panel on Administration of Justice and Legal Services will continue to follow up on the recommendations made in the report at its future meetings. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Dr Margaret NG be passed.

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

(Members raised their hands)

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

(No hands raised)

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

PRESIDENT (in Cantonese): Sixth Member's motion: Expanding land resources.

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

I now call upon Mr CHEUNG Hok-ming to speak and move the motion.

EXPANDING LAND RESOURCES

MR CHEUNG HOK-MING (in Cantonese): President, I move that the motion as printed on the Agenda be passed.

President, land is a valuable resource in Hong Kong. Without land, it is not possible to meet the housing needs, develop economic industries, provide community facilities and even construct transport infrastructure. According to the latest estimate of the Government, Hong Kong's population will reach 8.9 million in 2039. Just for meeting population growth alone, we will need an additional 4 500 hectares of land.

The expansion of land resources reminds me of Hong Kong in the early 1970s. At that time, in order to relieve the over-crowded urban population and increase industrial sites, the Government had built new towns in the New Territories through reclamation and large-scale land resumption. While new towns have been built one after another, our rural living environment, ecology and natural shoreline have also been damaged. What is more, the forceful resumption of land in the New Territories at low and even severely diminished prices through the Crowns Land Resumption Ordinance had also resulted in many protests and conflicts, leaving us chapters of history of inequality. Times have changed but there is still pressure to increase land supply. And yet, overly extensive reclamation and resumption of land can hardly gain public acceptance and recognition. Therefore, innovative policies and new technologies must be adopted to effectively expand land resources.

President, regarding the general direction, the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) welcomed the Government's proposals to "innovate to expand land resources" and set up a "land reserve" set out in last year's Policy Address. We are also pleased to hear from the authorities the "six-pronged approach" to expand land resources. And yet, it seems that the authorities have taken inconsistent steps and focused on the easy approach instead. In the recently released paper "Enhancing Land Supply Strategy: Reclamation outside Victoria Harbour and Rock Cavern Development", emphasis has been placed on reclamation to the neglect of the optimization of land in the New Territories. Concerning the timetable of land supply, although Secretary Carrie LAM has mentioned three "five-year plans" on land supply, such plans have not been included in the Policy Address or any other policy papers.

It is worrying that following a change of government, the prescribed schedule will simply be neglected. In the case of the Hung Shui Kiu new development area, for instance, planning has yet to be done after a decade.

Based on the above considerations, the first proposal of my motion today is to urge the authorities to formulate a comprehensive policy and timetable for expanding land resources and materializing the concept of land reserve, and build up a land reserve under a sustainable development approach, so as to stabilize land supply in the long run. Regarding the formulation of a timetable for land supply, we consider that this should be placed under the monitoring of the Steering Committee on Housing Land Supply, led by the Financial Secretary, which will constantly report on the progress.

On the concrete land supply strategy, according to the statistics compiled within the 10 years from 2001 to 2010, the three major ways to provide land in the past were reclamation, rezoning and resumption of land. And yet, after the Government proposed to "innovate to expand land resources" in the Policy Address, no further suggestion has been made in the paper entitled "Enhancing Land Supply Strategy" in respect of either rezoning or resumption of land. Instead, it has highlighted the various difficulties and even considered rezoning and resumption of land unable to provide the land required for creating the land reserve. I wonder if this is a blunder of the policy of the Government or an attempt to cheat us.

The authorities may argue that the six major policies proposed in the Policy Address have already covered a review on the use of "agricultural land", "green belt areas", as well as "Government, Institution or Community sites" and "industrial sites". While it is right to say that measures have been put in place, as some officials have told us, changing the use of land in the plans is no difficult task, but it does not mean that the land has actually be rezoned. Owing to multiple ownerships or the market-led principle, areas with revised land use may not necessarily be developed within a short time. Given that the Government is also aware of the crux of the problem, why did it merely raise questions but not provide a solution? Why did it not put forth proposals to promote land development while reviewing the use of land? In fact, in the past couple of years, the authorities have put forth a number of concrete proposals to promote urban renewal and the revitalization of industrial buildings. Why have they done nothing to encourage residential development on private lands but merely

sat on their hands? For instance, in 2001, the authorities completed the Review of Rural Land Uses in Northern New Territories and proposed to relax the plot ratio control of "Residential (Group D)" zone from 0.2 to 0.4. This has not only enhanced the development potential of existing land, but has also given landowners an incentive to expedite the development of land, thereby increasing the supply of flats. Why new initiatives of this kind have not been introduced to dovetail with the so-called "six-pronged approach" implemented to promote the development of land?

Although the Policy Address proposes that the authorities should "look into the use of green belt areas and agricultural land in the New Territories which are devegetated, deserted or formed, thus no longer performing their original functions, and convert them into housing sites", Members should note that out of the 16 000 hectares of green belt areas in Hong Kong, only 50 hectares are subject to review this time. The coverage is not only pitifully small, but also too narrow. Worse still, out of the 16 000 hectares of green belt areas, 2 000 hectares are privately owned. Why did the authorities not include such private land in the review of the policy on green belt areas but leave them deserted? President, we find it hard to understand.

As no new towns or new development areas have been built in addition to the existing new towns since the reunification, our land resumption policy has not been reviewed for quite some time. On the contrary, in March 2001, the authorities proposed a number of revisions to the urban renewal programme which has been introduced for 20 years. In particular, revisions have been made to the basis for calculating the Home Purchase Allowance payable to self-occupied owners and the Supplementary Allowance payable to owners of a tenanted flat, as well as the ex gratia allowance payable to owners of properties affected by renewal programmes. The authorities have subsequently implemented the "flat for flat" scheme for the Kai Tak Development to provide an alternative for the affected owners, so that owners who previously resided in the Kai Tak area can continue to live in a familiar environment and maintain their social networks.

President, we understand that the resumption of buildings for urban renewal is different from the resumption of land in the New Territories. Nonetheless, in view of the fact that the authorities have planned to initiate the process of land resumption for the Hung Shui Kiu new development area and the

3-in-1 Scheme in Northeast New Territories⁵, they should expeditiously review the existing compensation mechanism for land resumption, including the rehousing package for the residents, so as to avoid the recurrence of conflicts arising from previous large-scale resumption of land. For instance, there are currently four compensation zones, which are classified on the basis of the importance of the resumption to the development of new towns or other territory-wide projects. As far as the landowners are concerned, this has nothing to do with the value of their land. Yet, they are forced to accept this compensation mechanism. Compensation for Zone A and Zone D differs significantly. While the compensation rate of Zone A is \$824 per sq ft, it is only \$206 for Zone D. There is a four-fold difference. Is this fair? I really hope that the authorities can expeditiously review the land resumption policy, and for instance, reduce the compensation mechanism to two tiers or one standardized rate. Meanwhile, they should also make reference to the rehousing proposals in connection with land resumption in recent years, with a view to providing more appropriate rehousing alternatives for the affected residents by all means.

President, immediately after the reunification, the authorities have carried out many studies on land expansion, during which priority areas and potential sites have been identified for development. Detailed study and planning of priority areas such as the Hung Shui Kiu and "3-in-1" new development areas, as well as Kowloon East, have already begun after tiding over many difficulties, and some have even entered the construction stage. Yet, three new development areas in Northwest New Territories which have previously been identified as potential sites have been neglected. They nonetheless lie precisely along the Northern Link. The starting point of the Northern Link is Kam Tin, which is the development area in the vicinity of the West Rail Kam Sheung Road Station, and the relevant works have officially commenced under this year's Policy Address. The terminus of the Northern Link is Lok Ma Chau, and the development plan of the Loop will also be completed next year. Given that the authorities have decided to proceed with the development of the two ends of the Northern Link, the Northern Link should be constructed without further delay. They should make use of the Northern Link to link up three potential sites, namely Au Tau, Ngau Tam Mei and San Tin, with a view to promoting the development of the potential sites along the rail lines.

⁵ The 3-in-1 Scheme covers Kwu Tung North, Fan Ling North and Ping Che/Ta Kwu Ling.

Last of all, I wish to point out that though the DAB agrees that the proposed reclamation outside the Victoria Harbour is worth consideration, it hopes that during the consultation on reclamation, the authorities will show members of the public other ways of providing land, including urban renewal, land resumption, rezoning, rock cavern and mines development; and concrete proposals should be prepared. It is hoped that the authorities can genuinely implement the "six-pronged approach" and expand land resources on all fronts, but not promote reclamation in disguise under the pretext of providing land. At present, there is widespread opposition against the identified reclamation sites, which, according to our understanding, include Area 27 in Tuen Mun, Tolo Harbour in Tai Po and Wu Kai Sha. Some local people even queried the urgency of the reclamation projects, and expressed concern about their effects on the marine ecosystem and the visual impact. I hope that the authorities would fully consider their voices.

With these remarks, I beg to move the motion.

Mr CHEUNG Hok-ming moved the following motion: (Translation)

"That the Government estimates that Hong Kong's population will reach 8.9 million in 2039, while the number of households will reach 3.1 million; in the Policy Address announced last year, the Chief Executive stated that the Government would innovate to expand land resources, so as to meet the demand of housing and economic development; recently, the authorities have also conducted consultation on the development of rock caverns and possible reclamation sites outside the Victoria Harbour; in this connection, this Council urges the Government to:

- (a) formulate a concrete policy and timetable for materializing the concept of land reserve, and build a land reserve under a sustainable development approach, so as to formulate long-term land planning and stabilize land supply;
- (b) innovate to encourage residential development projects on private lands, including studying allowing owners of private lands to participate in the land development of new development areas or new towns, appropriately relaxing the plot ratio for rural residential land, and enhancing the transparency of premium payment;

- (c) review the existing compensation mechanism for land resumption, so as to expedite the Government's pace of land resumption for building new towns or new development areas;
- (d) comprehensively look into the use of green belt areas and agricultural land in the New Territories which are devegetated, deserted or formed, thus no longer performing their original functions, and convert them into housing sites;
- (e) before finalizing any reclamation works project outside the Victoria Harbour, release as a mandatory requirement important information such as environmental impact and project costs, etc. for conducting intensive consultation with affected stakeholders, and make compensation in respect of affected fishermen and the ecological environment; and
- (f) expedite the construction of the Northern Link with a view to driving land development in the Northwest New Territories."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr CHEUNG Hok-ming be passed.

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

I will first call upon Mr CHAN Hak-kan to speak, to be followed by Mr LEE Wing-tat, Miss Tanya CHAN and Mr Albert CHAN respectively; but they may not move the amendments at this stage.

MR CHAN HAK-KAN (in Cantonese): President, Hong Kong is small but densely populated, and there are more hills than lowlands. Hence, land is a valuable resource. How to optimize our land has all along been the focus of concern in society. After years of development on Hong Kong Island and Kowloon Peninsula, there is less and less usable land in Hong Kong. Therefore,

as early as the 1970s and 1980s, the Government had extensively utilized lands in the New Territories to develop new towns to provide accommodation for many people. However, as the development of new towns has almost completed, the Government has to identify new sites for development. I am grateful to Mr CHEUNG Hok-ming for moving today's motion and proposing six concrete proposals to explore new land resources. I propose an amendment, on the other hand, in the hope that the Government will expeditiously materialize the opening of the Frontier Closed Area (FCA) and formulate a concrete plan for developing the land of the former FCAs, so as to optimize the relevant land.

President, FCAs were established largely due to historical reasons, as well as security considerations. And yet, after more than a decade since the reunification, the role and function of FCAs have now gradually diminished. Opening FCAs will not only release considerable land, but also give impetus to the development of the entire northern New Territories.

The Government officially opened the FCA on 15 February 2012, and the first phase covers the Sha Tau Kok area. Other FCAs will also open to the public in a row in the following years. By that time, the areas covered under FCAs will be significantly reduced from the current 2 800 hectares to only 400 hectares. A total of 2 400 hectares of land will be released, which is as large as about 126 Victoria Park.

President, I understand that among these 2 400 hectares of land, while some have ecological value or other development objectives, most of the remaining sites have great development potentials. And yet, the Government seems to work "in slow motion". How long had the Government taken to open FCAs? After a decision was made to reduce the size of FCAs in 2006, relevant studies, planning and public consultation then proceeded, but the report was not published until 2010. It then took another two years before FCAs were officially opened this year. The project has dragged on for six years.

President, the Government has not only worked "in slow motion" in the development of FCAs, but also in the development of the Lok Ma Chau Loop (the Loop). The governments of Guangdong and Hong Kong stated as early as 2003 that they would actively introduce measures to support the development of the Loop, and even included the proposal in the consultation paper entitled "Hong Kong 2030: Planning vision and the strategy". How is the Loop today? It is

still a piece of deserted land. The Government may argue that the joint ownership of the Loop by Hong Kong and Shenzhen and the outstanding mud contamination problem have no doubt added to the difficulty of development. But are these reasons genuine? In my view, the Government has been too passive in the development of the Loop, and so far no development plan has been formulated. This situation is similar to the development of Kai Tak and West Kowloon, the discussion and study alone have taken decades, and many development opportunities have thus been lost. As a result, such a large piece of valuable land has been left idle under the sun.

President, although the land released from FCA is situated in the northern New Territories and may seem pretty remote with low accessibility, if we look from a wider perspective and consider the entire FCA as part of Shenzhen or even the Pearl River Delta (PRD) Region, we can see the strategic edge of this piece of land. It lies precisely at the centre of the PRD Region and can therefore be developed into a hub. That is why the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) has all along suggested the Government, on the premise of not compromising the natural ecology, lands should be released from FCAs for the development of commercial and industrial zones.

As for the concrete proposals, we consider that, first of all, a pilot scheme should be introduced to turn Sha Tau Kok into a Hong Kong-Shenzhen interactive tourism zone in the light of the unique environment of Chung Ying Street. The Ta Kwu Ling area can be turned into an industrial park for hi-tech industries, which focus on the development of technological and capital intensive industries. The Western Corridor area can be built into an industrial park, which can attract large-scale hi-tech enterprises to set up their business there. The Loop, on the other hand, can be developed into an integrated economic zone to accommodate service industries of different areas. By so doing, different FCAs will have their own specialties and unique characteristics, thereby achieving optimization of land resources.

President, in the recently published consultation paper, the Government proposed to increase land supply by reclamation and rock cavern development. President, speaking of reclamation, I would like to deviate a little. As you also live in Ma On Shan, you should have been to the beach in Wu Kai Sha, which is a very beautiful beach. I recall that six months ago, staff from the Leisure and Cultural Services Department (LCSD) and I went there to discuss with local

residents the possibility of formalizing the beach in Wu Kai Sha. The LCSD staff said, "Mr CHAN, this is not possible because the work requires reclamation, during which sand will be dumped into the sea. And yet, the Government will not deal with any reclamation request." Nonetheless, President, just take a look at the document released lately. You can see that the Government has proposed to undertake a reclamation project in Wu Kai Sha. Yet, it does not seek to form a beach, but merely to construct buildings or for other purposes.

President, from this case, I am convinced that "government officials can say whatever they like". President, the Government's proposal to undertake reclamation and rock cavern development actually involves a lot of work, such as land formation, consultation and environmental impact assessment. The process takes time and can only be regarded as a medium- to long-term proposal for land supply. Should we need to resolve the land supply problem in the short run, I believe optimizing FCAs is a desirable option.

I understand that certain lands in FCAs are privately-owned, and thus the development of FCAs might involve issues relating to land resumption and compensation, as raised by Mr CHEUNG Hok-ming earlier. And yet, I believe there are established statutory procedures which even the Government must follow. Are there any difficulties in developing such land? No, there are not. Similarly, in the course of redeveloping old districts or revitalizing industrial buildings, the Government has also encountered many difficulties. Yet, it has not given up in the face of such difficulties. Rather, Secretary Carrie LAM has often tackled these problems by making special arrangements in a proactive manner. I therefore fail to see why the Government has worked "in slow motion" in the development of FCAs. On the contrary, when handling major development projects like the development of FCAs or the northern New Territories, I think the Government should proactively consider setting up an expert group to enhance the effectiveness of the relevant work, and above all, to optimize this large piece of valuable land.

With these remarks, President, I move an amendment and support the original motion of Mr CHEUNG Hok-ming.

MR LEE WING-TAT (in Cantonese): President, the problem of land supply has always been a headache to the Government. As I have repeatedly pointed out, I

adopt an open attitude towards the long-term land planning and the proposals presently put forth by the Government. Discussions and studies can be held on proposals such as the selected reclamation sites in the New Territories which have gone through public consultation and are accepted by the public, as well as the development of rock caverns. However, I have also repeatedly pointed out that the land to be provided through these means will only be available some 10 years later. I am more concerned about the supply of land in the interim of five to 10 years.

I remember at the Commission on Strategic Development (CSD), Mr WAI Chi-sing, who works under the Secretary, once briefed Members on the progress of the study on reclamation and rock caverns. Strangely enough, not only me, but also many CSD members, some of them are even more conservative than I am, told Mr WAI that the Government's approach was infeasible, as the land to be generated by such means would only be available 10-odd years later, and discussion should first be focused on how to make land available for the coming five to 10 years. We have also pointed out that as there are so many industrial buildings someone once computed that there are about 1 000 industrial buildings in Hong Kong which are almost derelict, some of which are left vacant, some have been converted as warehouses, offices or for other non-industrial building uses. We have often asked the Government what incentives could be provided to put the sites of these industrial buildings into better use. I am certainly aware that the Secretary has been trying very hard to find some alternatives, but I will not dwell on this subject, because I can follow up on other occasions. As I can only speak for 10 minutes, I cannot digress from the motion.

Talking about the New Territories, I have discussed this subject with the Secretary for many years. I sometimes go up a hill in Yuen Long in my outings and from there, President, I have observed a strange phenomenon. On one side is the Yoho Town (I think it is acceptable to name the property), with 40-storey high buildings, but on the other side of the road, there are two-storey high village houses. I have asked the Secretary for no less than 10 times but she refused to answer me. I said, "This is the centre of the New Territories, no one would object if the maximum plot ratio is six to eight or if the buildings are 40-storey high. However, why is the plot ratio on the other side of the road as low as 0.5 to 1? Why does the plot ratio not gradually adjusting downward, such that in places adjacent to the area with a plot ratio between six to eight, 10-storey

buildings can be built, for places further away, four or five storeys can be built and in places even further away, one to two storeys can be built?"

I often bring up these issues with the Secretary, but the Secretary has yet to give me a satisfactory answer. However, I believe the reason is that land resumption in the New Territories is a tricky issue. I do not have a complete map on the New Territories, but I believe the lands are sporadic like scattered puzzle pieces and thus land resumption is very difficult. Who is the smartest guy? It is the developer.

In the reply to a written question of the Legislative Council meeting last week on the distribution of land in the New Territories, it was stated that almost 66% of the land is under private ownership while 33% is owned by the Government. The roads and public areas are excluded and only land in general is included in the computation. I believe this trend will become increasingly dominant and the Government's share of land development and control in the New Territories will continue to drop. I do not know if the Secretary will later tell us in her reply whether the Government may adopt measures, such as to include the land in Hung Shui Kiu, Northeast New Territories and Kwu Tung in the zoning plans, so that the Government can resume the development right of these lands.

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

I do not know if the Secretary will tell us about such measures. If so, please do not just include the lands in these three areas in the zoning plans. First, I am genuinely concerned that the Government may not have owned enough land in the New Territories; second, these lands are very sporadic; and third, if the Government is to resume these lands in the New Territories, the issue will be difficult to handle as the villagers may have sold their lands to developers, and land resumption will involve great disputes and controversies.

Hence, the Secretary would rather stay away from this work and has thus come up with the idea of developing rock caverns, which is a long-term work. Another work project which can be realized in a less distant future is reclamation. I have followed this issue for a long time and I note that the Secretary has never

told me how the extensive area of land in the New Territories can be developed more effectively and appropriately. I do not know whether any difficulties or troubles are involved, which may have prevented her, either in private or on public occasions, from talking about the effective use of lands in the New Territories.

Deputy President, I fully understand the difficulties faced by government officers in handling lands in the New Territories. In these few years, I have an impression — I often share this view with the Secretary and the Director of Lands as well — my impression is that some residents or a small minority of residents in the New Territories have adopted a "destroy first, develop later" tactic, a tactic detested by environmentalists and people who treasure natural places in the New Territories.

The most infamous example is certainly the case of Ho Sheung Heung. Several hundreds or almost 1 000 bulldozers dumped wastes at the site for a few nights, destroying an area as large as several football pitches. I have to thank Dr Kitty POON, the Under Secretary for the Environment, for visiting the site with me — a Subcommittee on Combating Fly-tipping was set up under the Legislative Council at that time — and I found that the site had been filled. Later, some villagers, maybe one or two villagers, submitted an application for building small houses there. I have already reminded the Town Planning Board not to approve their applications because this may encourage other people to dump debris or cut trees at a site and then apply for building small houses. This practice should not be encouraged. However, I am not aware that the Government has taken any effective means to stop them. The Government is often very passive, it only takes actions to pursue responsibilities after something has happened.

Coming back to the case of Ho Sheung Heung, a luxurious pig sty is erected in the site and it has not been demolished. Part of the pig sty is built with glass panes. I do not understand why pigs have to live so comfortably, such that they have to live in a glass-pig sty. The pig sty has to be demolished because part of it is situated on government land. Staff of the Environment Bureau had, together with staff of other government department, once went there to demolish the pig sty. However, the government officers were hemmed in by almost 100 villagers and the fiasco lasted a few hours.

Deputy President, I know that the Government will be intimidated by this case which I cite. Land resumption is a knotty problem, and it is very difficult to restore a site if it has been destroyed by villagers who adopt the "destroy first, develop later" tactic. What can the Government do? Hence, I do not know whether it is due to this reason that the Secretary, whom we nickname "Fighter", has rarely talked about how to handle the lands in the New Territories. I hope the Secretary can later tell us in her reply what reasonable measures will be adopted in developing the lands in the New Territories. By reasonable, I mean appropriate compensation will be awarded to villagers whose land has been resumed, a balance can be struck between land development and environmental protection, and unreasonable seizure of other peoples' land can be stamped out. The "destroy first, develop later" tactic should be stopped. If the Government always refrains from taking actions, many lands will progressively be destroyed and to such an extent that these lands can no longer be used.

Deputy President, I hold that we can explore and discuss on how to innovate to develop lands in the New Territories. Many people have shared with me their views, but it may not be appropriate for me to mention their names here, or else it may appear that I am speaking for the developers. However, we also have to accept the reality that some lands in the New Territories are already owned by what are referred to as organizations or indirect agents of developers in the New Territories. According to the Hong Kong Yearbooks which I have looked up, their lands in reserve amounted to \$10 million to \$20 million or more. Then, what should the Government do? Should the Government brush the issue aside and let the issue take its own course, or should the Government adopt a strategy? I hope the Secretary can later share her views in her reply.

Another point is, in changing the land use or in handling lands with innovative approach, it is of paramount importance that development should not be carried out at the expense of planning and environmental protection and that public aspirations should not be disregarded. Thus, I have added some conditions in my amendment, hoping that with these conditions, one will not focus on one point and overlook the others.

Deputy President, we certainly hope that more land can be reasonably released from the area around the Loop for development. We have raised similar proposals in the past and the Director of Planning has also told me that he does not want the development density of the area to be too high. Sometimes I

say to the Director of Planning, if the building density of areas in one side of the Loop is so high that wind can hardly pass through, while in the other side of the Loop, a bird can have one a hectare of land for its activity, this is unreasonable. The problem should be studied in detail, but related discussions should be initiated on the premise that various stakeholders' interests should be safeguarded and environmental protection should be reasonably taken forward.

Thank you, President.

MISS TANYA CHAN (in Cantonese): Deputy President, today, may I begin by extending my thanks to Mr CHEUNG Hok-ming for proposing the motion and to the several Members for proposing amendments. I will later explain the stance of the Civic Party on the original motion and the amendments.

In my amendment, I have crossed out some sentences of the original motion because of our concerns about the points raised in some paragraphs of the original motion. I will come back to this part later. For instance, in point (b) of the original motion, it urges the Government "to innovate to encourage residential development projects on private lands, including studying allowing owners of private lands to participate in the land development of new development areas or new towns, appropriately relaxing the plot ratio for rural residential land, and enhancing the transparency of premium payment".

Certainly, I always encourage enhancing the transparency of premium payment. It is because some people are of the impression that premium payment on the Kowloon side is low. It seems that people have acquired sites at an unbelievably low price. The case in question took place in Tsim Sha Tsui.

However, another cause of concern is on the point of "appropriately relaxing the plot ratio for rural residential land". I certainly understand that in the Review of Rural Land Uses in Northern New Territories conducted by the Government earlier, and in the Summary of Findings, the Planning Department has proposed to relax the plot ratio of Residential (Group D) zone from 0.2 to 0.4, but consideration will still be given to the infrastructure capacity of individual Residential (Group D) zone before deciding whether its plot ratio can be relaxed. If plot ratio is substantially relaxed, we are most worried that unauthorized building works in small houses will indirectly be legalized. Once the plot ratio

is substantially relaxed, our greatest concern is that these small houses will turn into small buildings.

In fact, under the existing requirement, an "Other Specified Use (Rural Use)" (OU(RU)) zone can reach a maximum plot ratio of 0.4 and be intended for a maximum rise of three storeys. If we refer to the Town Planning Board's guidelines for designation of OU(RU), or even for Village Type Development, they also echo the 0.4 plot ratio and a maximum building height of three storeys. Is it still necessary to sweepingly relax the ratio for all rural residential lands? We have reservation about this point and further study is required as we do not wish to see the New Territories being developed into a place as densely packed as Hong Kong Island or Kowloon Peninsula.

Moreover, in the discussion of any form of development and planning, the Civic Party has all along advocated a bottom-up development, one that is taken forward with public consultation. This is of paramount importance. We are aware that in the past few years, the Secretary has striven to take forward this task at different platforms. We also hope that support and co-ordination can be strengthened for property owners in old districts to participate in redeveloping old districts. I have thus added this point in my amendment.

We support most of the points in Mr LEE Wing-tat's amendment except one point which we fail to understand fully and he did not elaborate in his speech just now. That is, in reviewing the existing compensation mechanism for land resumption, he proposed to allow affected households to apply for purchasing Home Ownership Scheme (HOS) flats without having to undergo income and asset tests. Under the existing policy, households affected by clearance operations can apply for HOS flats as green form applicants if they meet the requirements for public rental housing allocation. I thus hope that the Secretary or colleagues of Mr LEE Wing-tat can later speak on this point for our better understanding.

However, I have added a sentence in point (c) of the Mr CHEUNG Hok-ming's original motion. In the wake of the Choi Yuen Tsuen incident, we realize that we need to take care of the large number of tenants and residents who have lived in the area affected by land resumption for a long time. Hence, in reviewing the existing compensation mechanism for land resumption, I have added that "the rehousing and removal arrangements for affected residents"

should also be reviewed. This is certainly related to ex gratia allowances. In fact, the Lands Department had set out in April 2006 ex gratia allowances payable for land resumptions and clearances for reference by owners, tenants and occupiers. Moreover, I believe after the incident concerning the Express Rail Link, there are aspirations that the handling of such matters should be formalized so as to address the needs of affected residents.

Besides, I have added a new point, which is to "comprehensively review the Town Planning Ordinance and the functions of the Town Planning Board, and strengthen the Town Planning Board's independence and effectiveness in monitoring, vetting and approving plans for developing land resources". In fact, not only the Civic Party but also many other people, I believe, have been lobbying for this. Given that the Planning Department is the secretariat of the Town Planning Board, the latter often has to consult colleagues of the Planning Department or other government departments in the handling of such plans. I always hold that this procedure is unnecessary. Why not give the Town Planning Board more resources to set up its own independent secretariat? I believe that it takes time to develop an independent secretariat, such as the Secretariat of the Legislative Council, which provides us with tailor-made and independent services. It is untenable that the Town Planning Board cannot have its own secretariat.

Moreover, I have also added point (b) and point (f) based on point (d) of the original motion, in order to urge the Government to "expeditiously include all lands within the territory of Hong Kong in statutory plans". This point matches exactly with a point raised by Mr LEE Wing-tat. He has just raised his major points of concern, whereas for me, my special concern is definitely the Tai Long Sai Wan incident.

In the wake of the Tai Long Sai Wan incident, the environmentalists have finally gained the recognition of the public on a point that they have been fighting for over the past decade or so, that is, we should treasure the resources of country parks or marine parks. These are public resources. However, after reviewing 40-odd sites not yet covered by country parks, the Government has attempted to progressively include these areas in the boundary of the country parks by means of Development Permission Area (DPA) plans, but there is apparently room for improvement in terms of work progress. We are certainly aware of the concern of some people regarding this approach, but an application procedure is in place

even when a certain site has been covered under the DPA plans. The development right of landowners will not be jeopardized. Hence, we very much hope that some precious sites can be conserved by means of DPA plans and be prevented from destruction by people adopting the "destroy first, develop later" approach.

However, we beg to differ with a point in the original motion which proposes to "comprehensively look into the use of green belt areas and agricultural land in the New Territories which are devegetated, deserted or formed" and so forth. Hence, we cannot support other amendments which have not deleted this point. In fact, development of a site will become justifiable if the site has been illegally opened up and irreversibly damaged to a point that it has lost its original values, such as the Tai Long Sai Wan. The more recent examples include Wong Chuk Yeung Tsuen and Ting Kok Village, and the Po Toi Island, where astonishingly, houses for the living and the dead have been built.

Although the Town Planning Board announced in July last year that measures would be adopted to prevent people from adopting the "destroy first, develop later" approach, the measures have obviously failed to prevent such cases from happening. We thus hope that the Government can expeditiously include all lands in statutory plans so as to conserve these lands as far as possible because many precious sites have been subjected to different degrees of damage. We hope that the Government can take urgent actions instead of being forever lagging behind in detecting problems, and only take stopgap measures. This is not what we wish to see.

Coming to reclamation, the task seems simple, but we have also heard many colleagues voicing their reservation about this option. To begin with, reclamation within the Victoria Harbour is under the regulation of the Protection of the Harbour Ordinance. No matter the reclamation is temporary or permanent in nature, and even if the reclamation takes place outside the Victoria Harbour, prior consultation is still necessary, and the reclamation should meet the relevant requirements as stated in the motion. However, the Civic Party wishes to stress that only when no other options are possible should reclamation be considered as a means of land supply because reclamation will generate far-fetching impacts and the price to pay is high.

I all along believe that a balance can be struck between development and conservation. I so submit. *(The buzzer sounded)*

MR ALBERT CHAN (in Cantonese): Deputy President, land can in fact be very romantic and full of literary colour and feelings. If Honourable colleagues have read the Nobel Prize-winning novel, *The Good Earth*, by Ms Pearl BUCK, they would be able to feel the strong feelings of Chinese farmers for land. For Hong Kong people, land is equivalent to money; or to put it in other words, Hong Kong people regard land as equivalent to real estate hegemony. For the poor, land means caged homes, cubicles and sub-divided units. Traditional Chinese people's love and strong feelings for land have completely disappeared as a result of the Government's land policies.

Land development and planning were really successful from the 1980s to the 1990s and at that time, the problem of shortage of land did not exist. In recent years, the Government has constantly said that land was in short supply to provide additional housing. As a matter of fact, this situation has arisen because the Government has ignored the demands for land, and the overall land policy has been distorted and revised. The main cause can be traced back to "SUEN's nine strokes". Under the leadership of Donald TSANG, the basic ideology is to transfer benefits to real estate hegemony and financial hegemony, with no consideration given to the development of land as a public asset or a necessity of the people.

Land cannot be supplied overnight and the Government has also said that it takes five to eight years to meet housing needs; in fact, it takes even a longer period of time. The whole planning process, from devising territory-wide development strategy, carrying out regional and district designs, drafting outline zoning plans, undertaking advance works, to completing infrastructural works and housing construction, it may take 12 to 13 years or even 20 years. Therefore, co-ordinated guidelines and administrative framework are indispensable to the provision of land. It is not difficult to re-start the land supply process because the Secretary is very familiar with issues like land development and supply. The problem is whether the Government has a policy and decision on developing and providing sufficient land for housing development.

In reviewing the land supply in the past 20 years or so, the amounts of land supplied varied from year to year. Concerning the amounts of land (in terms of hectares) supplied through land sales and private agreements, there were only 30 hectares in 2011, 162 hectares in 2010 and 111 hectares in 2009. In 2005, the land supplied was as high as 245 hectares; supply was also high in 2000, amounting to 225 hectares. Nevertheless, only 30 to 40 hectares of land were supplied in some years in the 1990s. Thus, we may not be able to fully grasp the actual situation of housing supply merely on the basis of land areas. In supplying residential sites, the Government must take into consideration the actual housing demands, including the actual demands for public housing, HOS housing and private flats. The Government must formulate land supply plans and this is precisely the focal point of my amendment; that is, the Government should draw up an annual 10-year rolling mechanism for land supply.

In the 1980s, the Housing Authority had a five-year rolling period for land supply and there was very clear information on the approximate number of housing units to be supplied in a certain area in the coming five years. Based on the information concerning this rolling period, the Government had clear and objective indicators, and it knew clearly the number of housing units that could be supplied, and among them, the number of public rental housing (PRH), HOS and private flats that could be constructed. Certainly, the actual completion date might be different. In the face of his corruption problem, the Chief Executive kept saying that there was a big gap between his expectation and that of the public. The gap in housing supply is even bigger than the gap mentioned by the Chief Executive in respect of his corruption problem.

Returning to the subject, I would like to talk about the gap in land supply and housing supply. If there is a 10-year rolling period, the Government can draw up explicit plans and even if no plans have been drawn, the Government should know the number of housing units to be supplied in the next three to five years. If the Government has not formulated such plans, it must draw up some fundamental guidelines and basic figures. How many PRH, HOS and private flats will be supplied in the next three to five years? And going a further step forward, it should draw up a timetable for the number of units to be supplied in the next five to seven years, and even 10 years. The Government can, based on the land supply in a certain year, project the time needed for meeting the housing needs. The actual period of time needed for supplying the housing units can be computed.

If there is a shortage supply of housing units in a certain year, the Government should ask the departments concerned to speed up the land supply or to complete the advanced works at an earlier date, and so on. To go one step further, if no lands are available, the Government should draw up Outline Zoning Plans as soon as possible. Where necessary, the Government should increase the development intensity in some places in view of the inadequate supply of land; for example, the original plot ratio of 3:1 should be increased to 5:1, so as to increase housing supply. The Government should make advance preparations for these arrangements.

Hence, if the Government says that owing to opposition from the public, no housing sites are available, that is just an excuse. In the short run, the Government can say that it has plans to construct PRH in certain area but the construction works cannot commence due to the residents' opposition. Nonetheless, if the Government has long-term plans over 90 000 flats were supplied each year at the peak of housing supply in Hong Kong; given that over 90 000 flats could be supplied each year at that time, how can the Government currently say that 30 000 to 40 000 flats cannot be completed each year? When Hong Kong was under the British administration with the Union Jack flying, the Government supplied over 90 000 flats each year, but it is now saying that it cannot supply 30 000 to 40 000 flats under the rule of the Five-Star Flag. Are Chinese people incompetent?

We must review the situation — the Secretary is very clear about the situation in the past as she was a civil servant when Hong Kong was under the British rule — a system had already existed in the past which was complete and fine, and there was division of labour among civil servants in different departments. From the 1970s to the 1980s and the 1990s, it was proven that the Government could provide adequate land and housing units, and it could even accelerate the supply when necessary. Why is there a gap in our housing and land supply under the rule of corrupt Donald TSANG? Apparently, there is a lack of a basic guiding policy for development, as well as a scheme to make reasonable and comprehensive planning and regulate the supply of housing units. If a plan can be devised and executed by civil servants who are capable and politically independent, and whom we are proud of, I think the objectives can be met.

(THE PRESIDENT resumed the Chair)

If the 10-year rolling mechanism that I propose can be implemented, we can see very clearly whether the Government is just paying lip service, giving flowery speeches, or taking practical actions. If a 10-year rolling period is set, the actual figures will have to be listed out. As the Secretary, who is a "fighter", has always adopted pragmatic approaches, I really hope that she can accept this proposal on a 10-year rolling period. If we can make projections about the land supply in the next 10 years, problems such as housing and land shortage would not emerge, and there would not be more derailment problems. If a 10-year plan is formulated, we will know rather clearly whether the Government is sincere or whether it is constantly cheating Hong Kong people.

I hope Members would support this technical amendment. The proposal in this amendment has not violated the basic principle of real estate hegemony (*The buzzer sounded*) and it has not violated the policies of the Government. Its purpose is to implement the land supply plans. Thank you, President.

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

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I very much welcome Mr CHEUNG Hok-ming proposing this motion on expanding land resources in the Legislative Council today. I believe the views expressed by Honourable Members in this debate will facilitate the Development Bureau in carrying out the public engagement exercise on enhancing land supply. Actually, when the four Members who have proposed amendments spoke just now, they have offered us valuable opinions.

The SAR Government has put in efforts in ensuring an adequate supply of land to cope with the housing demand, support the economic development in Hong Kong, provide sites for various community facilities, and meet with the demand for sites arising from the recent development of various industries where Hong Kong enjoys clear advantages. In my opening speech, I will first report to the Legislative Council the preliminary achievements made by the Development Bureau in recent years in expanding land resources. I will also respond to the amendments proposed by the several Members and share with Members the various challenges encountered in expanding land resources.

In the 2011-2012 Policy Address, the Chief Executive stated the SAR Government's determination in expanding land resources and formulating a land reserve policy. The determination of the SAR Government and the policy formulated will not be disregarded upon the change of the government as Mr CHEUNG Hok-ming has worried, for this is the aspiration of the general public, and we surely believe that this approach will be supported by the Legislative Council. Mr CHEUNG urges the Government to formulate a timetable for establishing a land reserve, hence, we have no objection to the drawing up of the so-called "10-year rolling mechanism for land supply" as proposed by Mr Albert CHAN. In fact, had Mr Albert CHAN attended the meetings of the Panel on Development, he would have known that we are not only talking about a 10-year period but a 15-year period or three five-year periods — that is why Mr CHEUNG Hok-ming can remind us earlier about this point — so that we can have a better picture of the overall land supply situation, particularly housing sites in Hong Kong in the short, medium and long terms. The policies and commitment have gained practical support, for a year or so ago, a steering committee on land supply for housing was set up under the chairmanship of the Financial Secretary. Hence, the various exercises in promoting the expansion of land resources are personally supervised by the Financial Secretary.

I am surprised to learn that a few Members have seemingly considered that the current term Government has done nothing in developing land in the New Territories. These Members thus consider that the measures introduced recently on enhancing land supply, and the discussions on the development of rock caverns and reclamation outside the Victoria Harbour, are attempts to shun the issue or take the easier option instead of the difficult one. Mr CHEUNG even said that I was cheating them so as to give the "green light" for reclamation. I really do not want to hear such comments, for this is definitely not our attitude of work. In fact, in the past five years, we have been making tremendous efforts to develop new towns and new development areas, which are regarded as traditional options for expanding land resources. Since the Chief Executive proposed that we have to innovate to expand land resources, six initiatives have been implemented as additional measures apart from the tradition practice of developing lands in the New Territories. Mr LEE Wing-tat wanted to know the process in developing lands in the New Territories. I thought Mr LEE would have a clear understanding of the process, for we have been adopting the same set of land development process, which certainly includes land-use planning, in the past two to three decades in developing many new towns. However, there are

significant changes in recent years. At present, land-use planning has to meet with the extremely stringent requirements on public engagement, and just the public engagement exercise on land-use planning will very often take two to three years. After that, we have to conduct project studies, land resumption and compensation exercises. Sites can only be provided upon the completion of demolition works and the development of infrastructure facilities. Mr Albert CHAN has always shown concern about our land development work, and he understands such works cannot be completed overnight. A rather long process is needed. Hence, while we are sitting in this Chamber today, we should not expect that one or two measures on land development can meet our needs, nor should we only consider reclamation outside the Victoria Harbour and rock cavern development when no other alternatives are available. At present, we can no longer adopt a single approach in land development; instead, a multi-pronged approach must be adopted. I would like to report to Members the latest progress of the six measures to expand land resources under the multi-pronged approach.

Concerning the release of industrial land, the Planning Department is now amending the Outline Zoning Plan in phases, based on the latest review which had been completed earlier. About 60 hectares of industrial land have been rezoned for non-industrial use. Among them, seven industrial sites located in Tsuen Wan and Yuen Long have been rezoned for residential use expeditiously within a year, and three of the sites will be given to the Hong Kong Housing Authority (HKHA) for the development of new Home Ownership Scheme flats and public rental housing flats. Mr LEE Wing-tat has reminded us that there are many potential factory buildings. I have noted his comment, but as two Members have pointed out earlier, the Development Bureau has adopted a lot of measures to release land resources from factory buildings in recent years, and the effects of these measures have also been manifested.

The second measure is about reclamation outside the Victoria Harbour. The Stage 1 Public Engagement, co-ordinated by the Civil Engineering Department, was commenced last November to consult the views of the public on reclamation on an appropriate scale outside the Victoria Harbour. After examining the coastline of the territory, we put forth 25 possible reclamation sites in January this year as examples — I must stress here that these sites are only examples, and it does not mean that we have proposed to carry out reclamation in these 25 sites. Hence, Mr CHAN Hak-kan does not have to be over-worried,

assuming that reclamation work will definitely be carried out in Wu Kai Sha. We provide the relevant information mainly to facilitate the public to think about and discuss the criteria for identifying reclamation sites. By now, we have organized and attended 41 briefing sessions or forums, and the Legislative Council Panel on Development has arranged a special meeting on 10 March to listen to the views of deputations and the public on reclamation outside the Victoria Harbour and the development of rock caverns.

The third measure is the development of rock caverns for the reprovisioning of suitable facilities, so as to release such sites for housing development. The public engagement exercise is underway, and we plan to conduct a number of studies in 2012-2013, including the feasibility studies on relocating Sha Tin Sewage Treatment Works, Mount Davis and Kennedy Town Fresh Water Service Reservoirs to caverns, and the studies on the long-term strategy on rock cavern development. The funding applications for these feasibility studies will be submitted to the Legislative Council Panel on Development for discussion at its meeting in March.

The fourth measure is to look into the use of green belt areas that are devegetated, deserted or formed. The first stage of review has been completed, and 15 plots of land in green belt areas are proposed to be used for residential development. We will follow the established procedure of conducting public consultation on the rezoning of these sites for residential use. The second stage of review has also commenced.

The fifth measure is to review the "Government, Institution or Community" sites. The review concerned has been completed. According to the findings, 24 sites have been identified to be suitable for residential development. However, statutory plans should first be amended before rezoning the sites for residential development. We will consult the public on the rezoning according to the established procedures. We will also study ways to reduce the restrictions posed by some government utilities, such as treatment works, to the development of adjacent areas so as to release more land available for other uses.

The sixth measure is to review agricultural land mainly used for industrial purposes, temporary storage or which is deserted. Four such potential sites have been identified in Kwu Tung South, Yuen Long South, Fan Ling/Sheung Shui Area 30 and Kong Nga Po, where relevant planning/engineering studies will be

carried out to confirm the feasibility and scale of developing the sites for residential purpose. The studies will be commenced by the end of this year, which will take 18 to 30 months.

In consolidating the various works mentioned above, the total area of land now under the studies and reviews of land usage of the Planning Department amounts to 2 500 hectares, 90% of which are located in the New Territories, and it is evident that we have not neglected land development in the New Territories. The area of 2 500 hectares is equivalent to one-tenth of the developed land in Hong Kong, and potential sites arising from reclamation outside the Victoria Harbour and the development of rock caverns now under extensive public consultation have not been included in the estimates. We understand that these two innovative options on land supply may be highly controversial, which may take more time to be mooted. As such, we are unable to outline the amount of land to be provided by these two options for the time being. As shown by the figures, there is potential for providing adequate land to meet the needs of various sectors and to establish a land reserve for Hong Kong. In my view, the expansion of land resources is prudently optimistic, but we must adopt a multi-pronged approach, overcome various difficulties and act in the overall interest of Hong Kong, so as to foster broad consensus in society in realizing the target of providing adequate land supply.

I mention the need to overcome various difficulties for it has been increasingly difficult to expand land resources in recent years. Mr Albert CHAN said earlier that we had been quite successful in the 1980s and 1990s. Actually, I have been working in the Government for over 30 years and I start to miss the old days at times. When I joined the Government in the 1980s, policy implementation and governance could be implemented without a hitch. I am afraid that time has changed, and such change is reasonable. With democratic advancement and higher public aspirations, our work has become more difficult, yet we have to overcome such difficulties to take forward. At present, a large proportion of undeveloped land in Hong Kong, excluding land located within the country park area, is located in rural areas or vegetation covered slopes where roads and other basic facilities are lacking, and these sites are zoned as "green belt areas" or "conservation areas". In developing these sites, we must face and resolve many issues relating to the environment, ecology and conservation, and so on. Even if we can resolve these environmental and planning problems, we have to deal with thorny problems like the resumption of private land, the

demolition of structures occupying the sites, the relocation of residents being affected, and so on. According to the content of the original motion and the amendments of various Members, it is evident that Members have recognized the difficulties I mentioned earlier. Hence, in the original motion, the Member urges the Government to innovate to encourage owners of private lands to participate in land development; review the existing compensation mechanism for land resumption; conduct intensive consultation with affected stakeholders and give regard to the impact on the environment. Miss Tanya CHAN states in her amendment the need to strike an appropriate balance between development and conservation, whereas Mr LEE Wing-tat proposes that marine ecology must be taken into account. In developed areas, we have also encountered the same difficulties. More often than not, we have to handle issues relating to development density, the opposition from residents or local districts, land resumption and demolition, as well as legal proceedings that may arise.

Based on the content of the original motion and the speeches of some Members, I am glad to learn that Members have adopted an open attitude towards reclamation outside the Victoria Harbour and have not resisted the option by regarding reclamation as an "original sin". Members have reminded the authorities that before implementing the plan on reclamation outside the Victoria Harbour, the impact on the environment and ecology must be properly addressed, and adequate communication with affected stakeholders, which definitely include the fishermen groups which are of concern to Mr WONG Yung-kan, must be conducted. That is also the attitude to be adopted by us in carrying out reclamation outside the Victoria Harbour.

I would like to stress one point. Up till now, the Government has not yet decided whether or not to make reclamation outside the Victoria Harbour, neither has it decided on the criteria for identifying the reclamation sites. The next step we will take is to conduct the Stage 2 Public Engagement, which is scheduled to be commenced in the third quarter this year. Our objective is to shortlist about 10 potential reclamation sites for consideration in the Stage 2 Public Engagement and for further engineering studies. During the detailed engineering studies of the reclamation project, we will examine the appropriate scale of reclamation and the construction cost. At the same time, Environmental Impact Assessment (EIA) will be carried out according to the Environmental Impact Assessment Ordinance to assess the impact of the reclamation works on the fisheries industry, and compensation proposals on the impact on the environment and the ecology

will be put forth. We will announce important information like the findings of the EIA and the construction cost of the works, so as to conduct extensive consultation with the public and stakeholders, including affected members of the fisheries sector. Prior to the commencement of the works, the authorities will, in accordance with the established mechanism, grant ex gratia allowance to eligible fishermen affected by the reclamation works, and mitigation measures will be implemented during the construction stage to minimize the possible impact on marine ecology and the fisheries sector.

Regarding the proposal to encourage owners of private lands to participate in land development mentioned in the original motion, it seems that Members have divergent views. Miss Tanya CHAN has expressed the concerns of the Civic Party and has proposed some amendments to the motion. In fact, the real estate issue we handle today is extremely sensitive. To encourage landowners to participate in land development, particularly when the lands they owned are in the rural areas that require rezoning, is no easy task, but it is a practical issue to be handled. Take the Hung Shui Kiu New Development Area as an example. More than half of the potential sites for development in the area are privately owned, and many of the sites have been purchased by estate developers over the years to build up a land reserve. Private land ownership and the implementation of the planning of the new development area are issues of great importance. Hence, at the Stage 1 Public Engagement under the Northeast New Territories New Development Areas Planning and Engineering Study carried out between the end of 2008 and early 2009, we had invited the public to give their views on the implementation of the project, that is the public-private partnership approach, which includes the mode of development for private participation. We had received several submissions proposing the mode of development with private sector participation. However, we had also received submissions expressing the view that the encouragement of private sector participation might arouse public concerns, or encourage owners of private land to terminate the existing lease and carry out demolition works, rendering the villagers homeless. Since the public hold different views on the implementation of the project, the Government is now examining the issue in-depth, and proposals will be put forth in the next stage of public engagement exercise.

I do not object in anyway to the adoption of innovative thinking in handling things nowadays. Hence, I treasure and attach importance to the encouragement of adopting innovative thinking put forth by Mr CHEUNG

Hok-ming in the original motion. However, many measures in the past, including the "inflated buildings" tactics, were implemented under the banner of innovative ideas, consequences of which have been palpable to all. As such, we must act cautiously in pursuing innovative ideas and breakthrough.

Unlike reclamation, any large scale development involving rural areas will inevitably involve land resumption and demolition. The social conflicts and disputes arisen from land resumption and demolition in recent years have become a cause of concern. It is only natural for the Member to request the authorities to review the existing compensation mechanism.

To meet the development needs of the New Territories in the past and to speed up the handling of compensation cases on land resumption, the authorities have adopted an ex gratia compensation system in handling land resumption in the New Territories. Under the existing system, ex gratia compensation is rated in four zones, namely A, B, C and D. I can assure Members that the compensation offered are not "severely diminished" as claimed by Mr CHEUNG Hok-ming. No, they are not "severely diminished". Nonetheless, affected land owners will strive for more favourable deals, and I think this is understandable. The four rate levels of compensation are applicable to four different zones, where the compensation rates of the various zones are set at a different percentage of the basic rate. The Administration will review and adjust the ex gratia compensation rates of these zones twice a year to reflect the changes in market values. We will review the zone boundary from time to time, and update the compensation zones of sites affected by land resumption in response to the condition of individual public works projects, so that land resumption can be carried out in a more effective manner.

However, the thorniest issue is how to handle the affected residents, who are mostly tenants. They include residents of squatters with no ownership of the land. Mr LEE Wing-tat proposes that affected households should be allowed to apply for the purchase of Home Ownership Scheme (HOS) flats without having to undergo income and asset tests, I am afraid it is impracticable. According to the Housing and Transport Bureau, HOS flats are precious social resources; the Government and the HKHA are obliged to ensure that these resources are used in a reasonable and fair manner, so that public housing resources are allocated fairly to people with genuine needs. Besides, Mr LEE's proposal may give rise to other problems. For instance, some people may move into areas pending land

resumption in advance, which will make the work of land resumption in future more difficult for the Administration.

In the speech of 2012-2013 Budget, the Financial Secretary pointed out that, with the tremendous investment in railways by the Government, we should make optimal use of the development potential of railway-property projects and review the planned zoning of the relevant areas, so as to cope with the development needs. We have immediately commenced the planning of the West Rail Kam Sheung Road Station and Pat Heung Depot. Regarding the rural area planning of this location, I have responded proactively to Mr LEE Wing-tat that we will adopt a more appropriate plot ratio, and the plot ratio concerned has been increased to three times for rural land development. In the original motion, Mr CHEUNG Hok-ming proposes the construction of the Northern Link with a view to driving land development in the Northwest New Territories.

The Government has all along worked hard to integrate transport and land planning; it will consider comprehensively the environmental factors and made timely review on the demand for transport infrastructure. The current review and amendment of the Railway Development Strategy 2000 is a case in point. In March 2011, the Highways Department commenced the relevant consultancy study with a view to updating the long-term railway development blueprint in response to the latest development in society, thereby rationalizing land planning and setting aside space for development to facilitate the implementation of railway proposals to meet the actual needs in future. The current study will examine the railway proposals put forth in the Railway Development Strategy 2000, as well as other railway concepts proposed by the Government and the public, which include the Northern Link. The entire study will take 24 months, and the Transport and Housing Bureau will continue with the relevant studies.

Regarding the development of the land of the former Frontier Closed Area (FCA) proposed by Mr CHAN Hak-kan, since the Government announced the final proposal on the reduction of FCA in January 2008 — the coverage of FCAs would be substantially reduced from about 2 800 hectares to about 400 hectares — which means the coverage will be the minimum necessary for the protection of public order whilst allowing more land to be released for public access and potential development. The reduced FCA mainly includes Sha Tau Kok town, various boundary control points and the newly delineated boundary patrol road.

The Planning Department completed the study on Land Use Planning for the Closed Area in the middle of 2010, seeking to provide the guidelines on the conservation and development of land released from FCAs, so that land resources in the area could be fully utilized. To capitalize on the strategic boundary location, development corridors are proposed at suitable locations, such as in the vicinity of border control points and along the major cross-boundary transport routes. Appropriate scale and form of developments are proposed to make good use of vacant land and abandoned agricultural land. The Planning Department has prepared five Development Permission Area Plans on the basis of the Recommended Development Plans under the Study. These plans had been gazetted in July last year in compliance with the Town Planning Ordinance, to provide statutory planning control for the development and conservation of the land to be released from FCAs. I hope that the development scale will meet the aspiration of Mr CHAN Hak-kan — that is, development should be carried out on the premise of not impacting the ecological environment. Hence, regarding the release of land resources in the New Territories, even so in FCAs, we have never been acting "in slow motion"; on the contrary, we are quite proactive. However, it is inevitable that extensive discussion and consultation process have to be carried out to avoid arousing disputes and judicial review in future.

As for the projects at Lok Ma Chau Loop and Liantang/Heung Yuen Wai Boundary Control Point, the relevant planning and engineering studies are now underway and I will not go into the details here.

As Mr LEE Wing-tat and Miss Tanya CHAN have in their amendments mentioned the Town Planning Ordinance, the Town Planning Board (TPB) and statutory plans, I would like to respond briefly. It is the long-term objective of the Development Bureau to prepare outline zoning plans for all districts in the territory other than areas covered by country parks and to exercise control over these districts. The work is carried out with regard to the pressure for development, the priorities of work and the resources required. Apart from the development needs of society, we will take into consideration environmental and conservation, and strive to strike an appropriate balance. Moreover, in order to meet the aspirations of the public, we have formulated the Development Permission Area Plans for 54 sites outside the coverage of country parks.

According to the Town Planning Ordinance, the Planning Authority may take enforcement actions against unauthorized developments in the Development

Permission Areas. The enforcement actions mainly include the issue of an Enforcement Notice to the person concerned to require the discontinuance of the unauthorized development, as well as the issue of the Reinstatement Notices for the reinstatement of the original state of the site. Non-compliance with the Notice is subject to prosecution. The Planning Department will prioritize their work by first handling unauthorized development at areas with conservation value.

As for the concerns of Mr LEE Wing-tat and Miss Tanya CHAN about the practices of "destroy first, develop later", the TPB had responded, and measures to stamp out such practice had been announced in the middle of last year. The TPB will defer decision on an application in order to investigate a case of unauthorized development where there is *prima facie* evidence to suggest that the unauthorized development on the application site is of such a nature that will constitute an abuse of the application process, so as to consider whether the application may be rejected for such reason. If the application site is subject to enforcement action and a reinstatement notice has been served, the TPB will take into account the expected state of the site in compliance with the reinstatement notice in considering whether there are sufficient merits or planning gains to justify the application. The Planning Department will give proactive support in handling planning applications and controlling unauthorized development.

Miss Tanya CHAN has, in her amendment, requested for a comprehensive review of the Town Planning Ordinance and the functions of the Town Planning Board; I beg to differ. The TPB is an extremely important statutory organization, the independence and credibility of which are beyond doubt. The members of the TPB are appointed as individuals who shoulder heavy workload to serve the public in compliance with the requirement of the Town Planning Ordinance with their professional knowledge, experience and ethics, and their commitment to the public office. The Planning Department, as a professional department, will assist the TPB in fulfilling its work with professional and technical support. Hence, I consider it incorrect to compare the independent Secretariat of the TPB with the Legislative Council Secretariat, for the TPB must be supported by the TPB professionally, and this is the main function of the Planning Department.

The 2004 Town Planning (Amendment) Ordinance (Amendment Ordinance) was passed by the Legislative Council in July 2004 and implemented

in June 2005. The main objectives of the Amendment Ordinance are to enhance the transparency of the planning system, streamline the town planning process and strengthen the enforcement control against unauthorized developments in the rural New Territories. Since then, the TPB has taken a great step forward in terms of transparency and accountability to the public. At present, announced plans and planning applications are available for public examination, and the public may express their views and put forth proposals on the plans for consideration by the TPB. Meetings of the TPB, except certain discussion and on special occasions, are open to the public, and the minutes of meetings are uploaded to the TPB webpage for public examination. The abovementioned measures have enhanced the efficacy and transparency of the planning system and the public consultation procedures. We think that the existing town planning system has made good achievement in terms of efficiency, transparency, accountability and public interest, and so on, and it is unnecessary to commence another comprehensive review.

President, I will listen to the speeches of other Members and give appropriate supplement or response later. Thank you.

DR RAYMOND HO (in Cantonese): President, in light of the future population growth, there will only be increasing rather than decreasing demands for land. While we need a large supply of land to meet housing needs, we also need land to meet the needs of economic and social development.

For more than a century in the past, lands in Hong Kong mainly came from reclamation. At present, 27% of Hong Kong people live on reclaimed land and 70% of the total office space and facilities are located in reclamation areas. Reclamation is a major source of land supply in Hong Kong; besides reclamation, a lot of land is available through man-made platforms formed from levelling slopes. There were around 10 000 man-made slopes in Hong Kong in 1977 but the number exceeds 60 000 today; the maintenance costs for these slopes are high. After years of development, locations suitable for carrying out similar works are not many.

This Council has earlier approved a funding of \$300 million for the Government to conduct a consultancy study on the feasibility of increasing land supply by reclamation and rock cavern development; I strongly support the study.

As a matter of fact, after the enactment of the Protection of the Harbour Ordinance, it is no longer feasible to carry out reclamation works on both sides of the Victoria Harbour. Between 1985 and 2004, about 500 to 700 hectares of land was created by reclamation every five years, but the amount of reclaimed land was close to zero since 2005. With advanced scientific development and higher technological levels, the impact of reclamation on the environment has been greatly reduced. Moreover, an environmental impact assessment system has been established in Hong Kong for detailed assessment of the impact of these projects on the environment. All necessary mitigation measures will be implemented and adjustment in the design will be made to minimize the impact on the environment. There are a number of past examples in which the waterfront environment has been improved through the implementation of some compensatory or environmental improvement works, such as straightening or adjusting the fairway, and beautifying the waterfront promenade for the public to take a walk.

For this reason, the Government can consider reclamation on an acceptable scale outside the Victoria Harbour. The option of creating an artificial island is most desirable, as it can minimize the impact and provide a considerable amount of land. Feasibility studies should thus be conducted expeditiously. The Government has actively consulted the public and the Secretary has just said that a total of 41 briefing sessions and forums had been held. It is the common practice in some countries to use rock caverns for storage and facilities. But, it may take more than 10 years for this development to have actual effect on land supply. Therefore, it is essential for the Government to expand land resources by other means in order to cope with the needs in the next decade.

Since the reunification in 1997, I have always suggested to the Government about opening of the Frontier Closed Area (FCA). I still remember that some government officials had rejected this idea on various pretexts, such as the area should be used as a security buffer and the topography of lands in FCAs makes them unsuitable for development. Through years of effort, the Government had finally made a reasonable decision to reduce the coverage of FCAs from around 2 800 hectares at present to around 400 hectares. The first phase of reducing the coverage of FCA took effect at zero hours on 15 February this year, and 740 hectares of land would be released. The second and third stages of the opening of FCAs in northern New Territories are expected to be implemented late this year and 2015 at the earliest. The opening of FCAs in northern New

Territories will release 2 400 hectares of land. The Government should make careful planning for the land and ensure the appropriate use of the valuable land resources.

The Government should also accelerate the development of Northeast New Territories New Development Areas, such as Kwu Tung North, Fan Ling North and Ping Che/Ta Kwu Ling, to provide more opportunities for development in Hong Kong. In drawing up the development plans of these areas, the Government should consider building more housing units to meet the needs of the elderly, and in particular, it should consider the increasing housing demands of the middle class. I have raised this proposal to the Government for more than 10 years.

Quite a number of pieces of agricultural land in the New Territories have been deserted and have not been put to good use for many years, which is a waste of our valuable land resources. Some of these lands have been used for non-agricultural purposes, such as container repositories, car parks, and old tyres dumping grounds. In November last year when the Secretary for Development answered my oral question in this Council, she said that the authorities would carry out study and planning afresh on some agricultural lands which were deserted or currently used for open storage or simple industrial purpose. She also pointed out the difficulties involved in the process and the time required would also be very long. A long time is needed to complete whole process of planning, studying and public engagement, as well as land acquisition and clearance if necessary, before the land can be released for housing development. I definitely understand the enormous difficulties faced by the Secretary for Development, but I still hope that the authorities can really take the matter forward, so that land in Hong Kong can be put to good use.

President, shortage of land resources has stifled the development of Hong Kong, and it is the main reason for high property prices. The authorities must look squarely at the issue and put forward feasible proposals that can dovetail with sustainable development. I so submit, thank you, President.

PROF PATRICK LAU (in Cantonese): President, I thank Mr CHEUNG Hok-ming for proposing the motion.

The Secretary has talked about the importance of consultation in the democratic process. In this connection, the Panel on Development will hold a special meeting on 10 March (the coming Saturday) to listen to the views of the public and deputations on this subject. The meeting will last five hours and it will be attended by many people and deputations. I hope Members who have proposed amendments would listen to people's views.

As Hong Kong is a small city with a dense population, land resources are particularly precious. The Government has always said that it does not have a "high land price" policy but market price levels are considered as indices for land sale. The property price certainly depends on the price of land on which the property is located but not on the building *per se*. The price of the building only takes up a low percentage.

Only some 20% of land in Hong Kong has been developed and there is still plenty of room for development. However, we must first figure out the position of Hong Kong. There are no industrial sites in Hong Kong as we do not have any factories; all we have are services industries as well as innovation and technology industries. The problem of inadequate commercial sites (such as sites for Grade A offices) should be solved by land planning. I think it is crucial for the Government to formulate a comprehensive population policy and grasp the demographic data with a view to achieving proper housing development.

I welcome that the Chief Executive has, in the 2010-2011 Policy Address, accepted my views and that of my sector voiced over the years, and that is, the Government should innovate to review the existing land uses and expand new land resources.

When the Government considers building up a land reserve, it must consider from the perspective of overall planning, and should not consider from the angle of facilitating the development of projects or construction works. Thus, I agree with Miss Tanya CHAN's proposal on comprehensively reviewing the functions of the Town Planning Board (TPB).

I have just heard the Secretary's views. This Council has all along proposed that the TPB should have an independent secretariat and it should not be chaired by a government official. Experience tells me that this proposal should

be implemented rather than just being explored because we have already discussed the issue for a long time.

I have served in the TPB for more than eight years and I have co-operated with the Secretary, who is also the Chairman of the TPB, for quite a long time. I was Vice Chairman of the TPB from 2004 to 2006 and I certainly have certain views on this issue. President, the TPB often takes up some works that do not serve great purpose, and its members do not have opportunities to discuss the main points I have just mentioned, or to examine how comprehensive plans can be formulated.

I had also raised these main points when I was Vice Chairman of the TPB but my views were not too well-received because the TPB had to handle many other issues, for example, the processing of applications on different projects. I believe the TPB needs to conceive ideas on the development of Hong Kong and support the work of the Planning Department.

In my view, the development of Hong Kong is restricted under the Buildings Ordinance. The present practice should no longer be adopted; instead, the TPB should be responsible for overseeing the design of buildings while the Buildings Department should be responsible for regulating building safety. As a member of the architectural sector, I have strong views in this respect, and I hope the Secretary would seriously consider my proposal.

Speaking on the subject, I have heard a lot of views from the community, especially green groups, on reclamation outside the Victoria Harbour, the development of rock caverns and developing the land of the Frontier Closed Area. The professional sectors have also raised many views on the impacts of the above proposals on the residents in the vicinity, the environment and the natural ecology.

Though Hong Kong lacks natural resources, we have a very impressive and beautiful natural environment, as well as many places with local characteristics. All these are precious resources that are irreversible, hence we must try our best to protect them.

I propose that the Government should conduct assessments before land development, and grant statutory protection to lands, waters and other building

areas with conservation value, and special provisions should be made in the Outline Zoning Plans. As for places without conservation value, development should be carried out.

There are similar practices in overseas countries. I agree with the remarks just made by Dr Raymond HO and Mr CHEUNG that many pieces of agricultural land in the New Territories have been used for piling containers or are deserted, turning them into worthless sites. We should consider how these sites should be developed.

As many outlying islands of Hong Kong have not been fully developed, we can consider making use of these outlying islands and places with low ecological value.

I do not think that extensive reclamation should be carried out in Hong Kong. Yet, we should consider adopting the practice of the Netherlands, to retain waterways to facilitate maritime traffic and to construct diversified islands with characteristics to enhance attractiveness and tie in with building development.

Lastly, I agree with Mr Albert CHAN's remarks. The Secretary has also said that a 15-year plan will be formulated to build up land reserves and achieve sustainable development.

Thank you, President.

MR WONG SING-CHI (in Cantonese): President, "expanding land resources" is the subject of the motion debate today and a number of Members have proposed amendments. I am going to explain on behalf of Mr LEE Wing-tat why some residents are in adverse circumstances after land resumption.

These people have lived on government land for decades. Their contribution is to cultivate the land so that it would not be deserted, and the produce from the land can meet their daily needs. These families were poverty-stricken but their conditions have slightly improved when their children have gradually grown up. Unfortunately, under the existing government policy,

if the Government resumes the land, these residents cannot be allocated public rental housing (PRH) if their incomes exceed the limits.

Does Miss Tanya CHAN consider that fair to these people? They have cultivated the land for many years and they have put in a lot of efforts to develop the land. When the Government wants to resume the land for the construction of housing estates or other development, these residents cannot enjoy the rights and interests related to land development. They may be driven away or they have to move elsewhere; and they will not be allocated PRH if the incomes of their children exceed the limits.

The Democratic Party proposes that, in the event of land resumption by the Government, if it can be proved that the residents have been living in the area concerned since 1980s, for example making a red mark on their door, can the Government allow them to buy HOS flats as green form or white form applicants even if their incomes exceed the limits? In this way, the residents will be treated fairly. These people have cultivated the barren land over a long period of time, when they eventually have to hand over the land to the Government for development, they should be able to enjoy the fruit of development. Therefore, I hope Miss Tanya CHAN would understand that this is similar to the earlier case of villagers striving for their lands when their land was resumed for the construction of the Express Rail Link.

President, I hope that the Government would not consider the issue of expanding land resources from the economic angle or the point of view of making profits, or enabling some businessmen to earn more money because people's sentiments and livelihood are also very important factors for consideration. I have provided district services in the New Territories for nearly 30 years and I have come into contact with many non-indigenous residents. I have also come into contact with indigenous residents. When there are disputes between indigenous and non-indigenous residents, non-indigenous residents, who are in the minority, will seek assistance from us while indigenous residents, who are in the majority, will naturally seek help from the rural organizations. Although the minority will seek assistance from us, the situation of non-indigenous residents is really pitiable.

Thus, I hope the Government would make greater efforts in respect of land resumption compensations to ensure that this group of residents can live in

contentment. In resuming private land, I also hope that the Government would give practical assistance to these non-indigenous residents because they have lived there for a long time but they are the disadvantaged group.

President, I have experienced a number of large-scale protests against private or government land resumption in the New Territories. The incident in 1996 concerning land resumption on Po Lau Road in Kwu Tong by a private developer had left a deep impression on me. At that time, a group of residents had lived in the land, acquired by the developer, for over 40 years. As the landowner had ignored the site for many years, the residents could actually file an application for adverse occupation and permanent occupation of the site according to the Limitation Ordinance. Nevertheless, the developer caused great nuisances to residents, and even illegal means of the triad society were adopted. The measures adopted were abominable, for example, people dug a hole in a small house acquired by the developer in the middle of the night, filled the hole with petroleum and set fire. They then pulled off all the cables and sealed the gate. I vividly recall that the incident happened in 1996, and Mr Albert HO had, on that night, got an injunction order signed by a Judge, prohibiting the use of such strategies by developers for land resumption. A lawsuit was finally brought between both sides; and up to now, the lawsuit has yet to be settled after dozens of years.

We had discussions with a number of departments at that time but they said that they could not intervene so long as the owner proved that he owned the land. Before a judgment was made by the Court, many legal procedures are required before the land can be resumed. The incident happened more than 10 years ago and the lawsuit can be regarded as a classical case. To date, the developer has still failed to resume the land. There are many similar cases in other areas.

We have recently received complaints from residents of Hang Tau and other areas concerning land resumption by people who claim that they are land owners. We think that land cannot be resumed before the completion of the relevant legal procedures. The Government cannot be biased towards land owners and allow them to arbitrarily remove all buildings on the land. Though this may not have anything to do with the Secretary, I hope she would reflect the situation to the Secretary for Security or the Secretary for Home Affairs. If private developers intend to resume land in the New Territories, they must comply with reasonable and lawful procedures. If there are people who, upon

production of land deeds, demolish the houses of residents, I hope the police will not just keep silent and take no actions.

If the Government rashly and desperately encourages developers to develop the land before these matters have been resolved and shows no concern for the residents, the powerless non-indigenous residents who have lived in rural areas for a long time will suffer. I hope the Government would take care of these residents in the development process. Thank you, President.

MR WONG YUNG-KAN (in Cantonese): President, we support Mr CHEUNG Hok-ming's motion today but I would like to make a few points. In item (e) of his motion, Mr CHEUNG Hok-ming proposes reclamation works projects outside the Victoria Harbour. The Government has been discussing the issue with us and it may also have meetings with the sector to discuss the same. I have looked up the past record and according to government information, from 1842 to 2010, 6 700 hectares of land were created from reclamation, and from 1980 to 2010 alone, 2 620 hectares of land were created from reclamation, which has greatly reduced the local waters, including the Victoria Harbour. Therefore, we used to say that the Victoria Harbour should instead be called the Victoria River. This testifies that the Government has carried out many reclamation projects for the sake of economic development.

In the past century, the Government has not proposed any plans to compensate for the loss of marine resources resulting from reclamation projects. Even in the recent reclamation project, the Government has not intended to do anything to rectify the damages done to the marine ecology, which is most frustrating. The Government only cares about creating land by reclamation. While reclamation can help solve the housing or development problems, what measures have been taken to address the problems related to the marine ecology? When I discussed this issue with some Mainland departments, they told me that they dared not carry out reclamation works at certain bays; of course, illegal reclamation works may still carry out. I would like to tell the Secretary, reclamation works are now being carried out in over 6 000 hectares of Hong Kong's marine waters, most of these areas are used for the conservation and development of fishery resources or the marine ecology; as a result, the fishery resources in Hong Kong has been decreasing. The Government must reflect upon what it has done or damaged, and how it should make compensations. I

remember that I said two years ago that the Government should expeditiously collect marine conservation funds from developers who acquired land created by reclamation so as to conserve marine resources. Apart from the Government, other developers should also do so in order to conserve the marine waters. I am making this point once again here.

Mr CHEUNG Hok-ming is very concerned about members of my sector and he has suggested how the Government should make compensations. Apart from financial losses, I think it is more important for the Government to conserve the marine ecology because the beautiful bays and places are not only for the enjoyment of fishermen but also for people from all walks of life. In conducting future studies, I hope that the Government would not just carry out reclamation projects at shallow banks. It is very convenient for the Government to carry out reclamation at shallow banks because less soil is required and the projects take shorter time; a flatland will soon be created but the bay would disappear. Just take a look of the areas around Kwong Fuk Estate in Yuen Chau Tsai, Tai Po where I lived when I was young, the shallow bank had gone. We hope that the Government would make greater efforts in this connection.

Up to now, I still do not quite understand, the Government talks about releasing land at the Frontier Closed Area, but actually only a few hundred hectares of land are involved, is there really no other available sites for development? Before reclamation, should the Government consider the development potentials of other islands? Do not say that it is difficult to develop these islands. For instance, we can travel by ferry from Ma Liu Shui to Tap Mun; the Government can consider developing Tap Mun to accommodate 20 000 to 30 000 residents. It takes an hour for them to travel by ferry to Ma Liu Shui and then they can go to the urban areas. Why does the Government not consider developing such places? How about Kat O in North District, I am not saying that large-scale development should take place, but housing development can be carried out in these places.

I think the Government should consider the impact of reclamation on the marine ecology and it should consider if there is land for development on the outlying islands. The Government should tell us, apart from reclamation, what options are available to develop land in an orderly manner? Are there better methods other than the proposals mentioned by Mr CHEUNG Hok-ming that are considered feasible by the public? If the Government intends to seek our

consensus for reclamation, it should try to convince us, it should convince members of the sector, so that we will consider that reclamation is the best option. It is undesirable to have sharply divided views all the time.

Thus, I am very much concerned about the Government's reclamation projects. I frequently take Tai Po as an example because it is a very special place. The Tolo Harbour is one of the few bays in Guangdong Province, and it is an inland salt water lake. This kind of lakes is seldom seen in other places; we often see freshwater lakes but not salt water lakes. Hence, I hope the Secretary would cherish these resources. As Tolo Harbour connects Sha Tin to Ma On Shan, if reclamation is to take place, I hope that the Secretary would cherish these rare resources and would not ruin them arbitrarily. Thank you, President.

MR WONG YUK-MAN (in Cantonese): President, our debate on "expanding land resources" today should start with an explanation about land ownership.

More than a century ago, Dr SUN Yat-sen proposed the ideas of "equalization of land rights" and "land value increment to the public", which originated from the idea that "the equal right of all people to the use of land is as clear as their equal right to breathe the air", as stated in the book *Progress and Poverty* written by the United States economist Henry GEORGE and published in 1879. According to Dr SUN Yat-sen, the "ownership" of land belonged to the State; the "right to use" belonged to the people while the "right of control" belonged to the Government. In his speech "Socialist Factions and Methods" in 1912, he said that the future increases in land prices should be for public ownership as this would be consistent with the social and economic truths. He further said that investigations should be conducted on the lands of the landlords, the landlords should be asked to set the prices of the land and report voluntarily to the State, the State should collect tax at 1% of the land price. In today's language, the concept of "land value increment to the public" advocated by Dr SUN Yat-sen can be explained as follows: since the rise in property and land prices come from social progress and political reform rather than the efforts made by the owners; the increment prices of property and land should be shared by the public, and all the additional increments should be used on public welfare. We should also return to society what we have taken. This is the ideas of "equalization of land rights" and "land value increment to the public" put forward

by Dr SUN Yat-sen more than a century ago. Today, this concept is a utopia that can hardly be materialized.

Let us take a look at the real estate hegemony in our society. In the latest Budget presented by the Financial Secretary, he offered a rates rebate of \$11.7 billion. At a House Committee meeting, Mr Albert CHAN proposed the establishment of a subcommittee to discuss the rates issue, and he asked the Government to provide documents to list the top 10 persons or companies obtaining the greatest benefits from the rates rebate, as well as the amounts to be refunded. We found that the person or company which ranks first has a rates rebate of \$90 million. Therefore, President, we think that this Budget is "robbing the poor to feed the rich".

In Hong Kong, "land value increment to the public" is tantamount to joint monopolization of land by the Government and large estate developers. Land value increment are not allocated to the public but shared by a selected few. President, you may consider this issue irrelevant to the motion. In fact, the issue is related to the motion because the rising values of land prices and property prices in Hong Kong are mostly reaped by large developers and flat owners. How did Dr SUN Yat-sen describe this situation? He used the words "reaping where they have not sown". People who are not flat owners suffer. More than a century ago, Dr SUN Yat-sen had already realized that the biggest problem in China was land allocation. Some have said that the Kuomintang and Dr SUN Yat-sen were rightists, they are wrong. Dr SUN Yat-sen was a typical leftist while the Kuomintang at that time was rightist. It seems that I have deviated from the subject, but as we are discussing about expanding land resources, I think of the problem of annexation of land. The Secretary will certainly disagree but I am just using the current topic to put forward my ideas.

It is true that Dr SUN Yat-sen's thinking could not be materialized in Taiwan. However, Taiwanese people have at least understood his spirit, thus the measure of rent reduction to 37.5% has been implemented. In the 1950s and the 1960s, the Government subsidized farmers in various ways, and the Land to the Tiller Programme was implemented. Article 143(3) of the Constitution of the Republic of China specifies that "If the value of a piece of land has increased, not through the exertion of labour or the employment of capital, the State shall levy thereon an increment tax, the proceeds of which shall be enjoyed by the people in common." When we proposed a capital gains tax, the Government regarded us

as murderers and was frightened by our proposal. Nevertheless, the tax has already been implemented in Taiwan. Taiwan can be described as a capitalist society but the situation is not as extreme as that in Hong Kong. It is impossible for Dr SUN Yat-sen's propositions to be implemented in Taiwan. Nonetheless, in trading of non-agricultural land in Taiwan, there are also provisions for the distribution of the value-added benefits of land; for example, when farmland is converted to non-agricultural land use, 40% of value added tax is payable when the land value increases by 100%, and 50% of value added tax is payable when the land value increases by 200%. There is a progressive tax rate; the higher the additional value, the higher the tax. These are the ideas of capital gains tax and progressive tax rate that we proposed in the past. We have made these proposals for the reasonable distribution of social wealth — land is the most important part of wealth and land resource is social wealth. That is not the same as the belief of the Communist Party.

If the idea of "land value increment to the public" is to be adopted in Hong Kong, reference can be made to book *Real Estate Monopoly in Hong Kong* written by Alice POON. I am not sure if the Secretary has read the book. The author has mentioned in her book the idea of collecting from landowners a land value tax (similar to land value increment tax). Owing to the time constraint my script is very long and I am about to address the topic. I have already spoken for nearly five minutes and time is almost up.

People Power thinks that the purpose of Home Ownership Scheme (HOS) flats is to meet the housing needs of the public, hence they should not be bought and sold in the private market as prices will rise freely and become unaffordable by the public. When HOS residents sell their flats, they can only sell them in the HOS Secondary Market or sell them to the Hong Kong Housing Authority, so as to ensure that HOS flats will cater for the needs of the public.

Today, when the Chief Executive made an apology, we see that he is almost in tears. I have mixed feelings. If he apologizes for what happened last week when staff of the Food and Environmental Hygiene Department drove away the homeless in Sham Shui Po and snatched their property; or if he apologizes for people who have waited for 10 years but have not yet been allocated public housing, or if he apologizes for the widening wealth gap in Hong Kong and for an extra hundreds of thousands of poor people in the community since he took office as the Chief Executive, his apology today would be touching. Yet, his apology

today made us treat him with scorn. I think fairness is most important in the case of expanding land resources. I am not discussing with the Secretary some specific technical issues but issues concerning principles. The ideas of "equalization of land rights" and "land value increment to the public" serve as reference and they can actually be realized through changes in tax rate.

Thank you, President.

MR WONG KWOK-HING (in Cantonese): President, I think that the issues of expanding land resources and town planning are inseparable. Concerning this issue, I hope the Government and the Secretary would note that it is essential to have comprehensive policy, prudent consideration and co-ordination, and each department should not work in its own way. The imbalance and blunders in land planning in the past have caused serious impacts and irreparable consequences on the residents and the public.

First, I think the Government must consider the provision of supporting transport facilities. If there a lack of a comprehensive transport system, the residents will frequently have the impression that the Government has sent them to remote places as pioneers, without bothering whether there are comprehensive transport facilities. Consequently, residents of these remote new towns have difficulties in their daily lives and in getting employment opportunities, and thus they have remained poor. This is related to inadequate planning in terms of important town planning and land resource expansion. This is the first point.

Second, I hope the authorities would pay careful attention to people's basic living and employment opportunities. Tung Chung is a case in point to illustrate the inadequate transport facilities. As regards the second point, I have to cite Tin Shui Wai as an example. While hundreds of thousands of people are living in Tin Shui Wai, we cannot find a market operated by the Government in the district. There are a few markets operated by the Housing Department and some other markets under The Link. Thus, if residents in the district want to buy daily necessities, they are compelled to patronize the monopolized shopping centres under The Link, or shopping centres under The Link which have been contracted out. This will affect government administration and create a wealth gap.

Employment is another factor for consideration. What should be done to enable residents getting a job in places near their homes? In our view, there were better planning in the past, but recently, the Government has not given thorough consideration to this issue. As a result, hundreds of thousands of people who are living in Tin Shui Wai have to travel a long way to work elsewhere, and naturally, the transport expenses are high. Without comprehensive consideration, the social commitment will be great in the future. Let us consider the Work Incentive Transport Subsidy Scheme currently implemented by the Government. This is a sort of remedial scheme to rectify the blunder arising due to inadequate consideration in the past, leading to problems regarding social development and town planning. This is the second point.

Third, the Government must consider the provision of basic community facilities, community care, as well as medical and healthcare services. If we send people to live in a remote district which does not even have basic community support facilities, residents may have difficulties seeking medical consultation, and there may not be adequate welfare facilities for families and communities. If remedies are only considered when problems have emerged some eight to 10 years after people have moved to these remote areas, the Government may refuse to make improvement on the pretext that it is difficult to find suitable sites. I think the root cause of these problems is incomprehensive consideration. This is the third point that I ask the authorities to consider.

Fourth, I hope the authorities would pay attention to conservation and greening. Conservation and greening are very important issues; as we have noticed, a lot of land in the New Territories needs greening as mentioned in Mr CHEUNG Hok-ming's motion; we should not allow weeds to grow everywhere, we do not want to see rural lands become disorganized and disorderly. This situation is surely very unsatisfactory.

Furthermore, I appeal to the authorities to pay attention to conservation. Recently, we have received requests for assistance from some Chai Wan residents. The last factory building in Hong Kong in the form of resettlement block is located near the MTR station adjacent to the New Jade Garden in Chai Wan. This kind of building has become a collective memory of Hong Kong people in connection with our industrial development. It has been learnt that the authorities intend to demolish the factory building for redeveloping it into a

40-storey high commercial/residential building. The residents think that the Government should also take conservation and greening into account as well.

Fifth, the authorities have to be well co-ordinated in all aspects. For example, the Food and Health Bureau states that it is difficult to identify suitable sites for building columbarium, yet should the authorities consider how to solve the problem of inadequate supply of public columbaria? For instance, some taxi and minibus drivers are protesting outside the Legislative Council today, asking for additional dedicated LPG filling stations. Yet, the authorities have been delaying the construction of additional LPG filling stations. During the town planning and land development stage, the provision of these facilities should be taken into account. Hence, I hope the Government would be well co-ordinated in all aspects in expanding land resources, and the departments concerned should be asked to make overall consideration in responding to the needs of the public.

MR TAM YIU-CHUNG (in Cantonese): President, land is a limited and valuable resource and the reasonable use of land is directly related to the harmonious situation in a certain place. Back in the Spring and Autumn Period, Guanzhong from the Qi State said, "land is the foundation of governance". At present, the economic and social development in Hong Kong is under the "bottleneck" restriction of land shortage, and there is a pressing need to expand land resources. The SAR Government proposed six measures late last year for expanding land resources under a six-pronged approach. The Government's proactive measure for reserving more land resources for Hong Kong is worthy of our support.

One of the ways to increase land supply is the planning of new towns and new development areas (NDAs) but the Government has recently slowed down its pace in this regard. In the past 15 years, the Government has not undertaken any works on the development of NDAs; the Northeast New Territories and Hung Shui Kiu NDAs under current planning are still at the early stage of study. To accelerate the supply of land in the future, the Government should speed up the planning of NDAs and it should launch planning studies on the four potential development areas including Kam Tin, Au Tau, San Tin and Ngau Tam Mei as previously proposed.

One of the proposals in the original motion of our Honourable colleague Mr CHEUNG Hok-ming is to expedite the construction of the Northern Link with a view to driving land development in the Northwest New Territories. This idea has been advocated by the DAB for a long time. The construction of the Northern Link can drive the development of four areas including Kam Tin, Au Tau, San Tin and Ngau Tam Mei. However, it is a great pity that the construction of the Northern Link has been procrastinated in the past 20 years. The construction of the Northern Link had already been raised in the Railway Development Strategy in 1994, and it was specified again in the Railway Development Strategy 2000 that it is one of the six new railway projects. A target has even been set for the projects to be completed between 2011 and 2016, yet no progress has been made so far. The Government's latest attitude is unclear and it has just said that the construction of the Northern Link must be consistent with the planning of the New Territories NDAs. As no results have been concluded regarding the studies on the New Territories NDAs conducted by the Planning Department and the Civil Engineering and Development Department, it has not been finalized if the construction would be undertaken.

There is a lot of undeveloped land in the Northwest New Territories, and when the necessary transportation facilities and other infrastructures are in place, these lands can immediately be developed to implement various livelihood policies, the benefits attained will be greater than creating land by reclamation. If the Government can expedite the construction of the Northern Link, in addition to Hung Shui Kiu, four other areas including Kam Tin, Au Tau, San Tin and Ngau Tam Mei will be linked up by the Northern Link to become a coherent and integrated town area, large area of land can thus be released. In this way, worries about the shortage of land in Hong Kong can be relieved.

Another way to increase land resources in Hong Kong is to release industrial land for non-industrial use. The Secretary has mentioned that many measures have been implemented, but we generally think that the effects of these measures are not significant. As we all know, most of the floor areas of industrial land in Hong Kong are not used for manufacturing purpose, but for warehouse storage. Some of these warehouse buildings are even located near railway stations, and it will be a serious waste of land resources if such sites are used that way. Take Tuen Mun as an example, the industrial zones in Tuen Mun Areas 9 and 12 are located next to the West Rail Tuen Mun Station. More than 65% of the floor areas of the industrial zones have been converted into warehouse

storage facilities but the vacancy rate reaches 7.8%. In other words, 73% of the valuable land near the West Rail station cannot create employment opportunities or stimulate the economy. Therefore, we hope the Government would pick up the pace and convert more industrial sites into residential or other non-industrial sites for their best possible use. Besides changing the planned uses, the Government should also introduce more complementary measures to speed up the alteration or redevelopment of industrial buildings.

Concerning the development of rural land, the land compensation issue is the most difficult to resolve. Though the Secretary has talked about this issue, I would like to say once again that at present, only owners of private land can receive compensation upon the Government's resumption of the private land for public purposes. Though owners of agricultural land can receive compensation amounts based on the ex gratia compensation rate for the area, they will not receive corresponding compensations for the premises they built on the agricultural land. If the premises built by owners are not tolerated structures approved by government licenses or leases, or squatters which have been registered in 1982, or if registered squatters have undergone alterations, owners will not receive the ex gratia compensations for occupants upon the Government's land resumption.

Let us imagine, will residents not fight until the end when their beautiful homes are taken away by the Government and they have not been given any appropriate compensations? Hence, if the Government wants to increase land resources by land resumption, it can no longer rely on the mode of resolving conflicts by handling special cases with special methods.

With these remarks, I support the original motion.

MR CHAN KIN-POR (in Cantonese): President, in recent years, Hong Kong has been facing the difficulties of insufficient supply of residential and commercial sites, which resulted in rising property prices and the overall development of Hong Kong has been affected. Our population will increase to 8.9 million in 2039 according to government projections, and coupled with the simultaneous development of our economy, we will need an additional 4 500 hectares of land in the future to meet the actual needs.

To cope with future land development, the Government has indicated that it will comprehensively review the use of land resources in Hong Kong and it will innovate to expand land resources. Moreover, the Government has recently launched the public engagement exercise on "Enhancing Land Supply Strategy" and it has proposed six land supply options including rezoning, redevelopment, land resumption, reclamation, rock cavern development, and reuse of ex-quarry sites.

I believe the community generally supports finding ways to increase land supply but these six land supply options have their respective advantages and limitations and people may have different views on some of these options. In particular, there are a lot of controversies over such options as reclamation, land resumption and rezoning. In my opinion, so long as the Government can take into account issues concerning environmental protection and conservation, all land supply options should be considered. It should also adopt a multiple-pronged approach to ensure stable land supply.

I would like to talk about the issue of reclamation outside the Victoria Harbour, which is a focal point of the public engagement exercise on "Enhancing Land Supply Strategy", and the most controversial option. Speaking of reclamation, we will inevitably think of our competitor Singapore. Regarding economic development, Singapore has always been courageous with forward planning. Information shows that Singapore has created 13 700 hectares of land by reclamation in the past 30 years, which accounted for 26% of its original area. Macao is another example that we have frequently mentioned. Macao only has an area of 1 100 hectares in the early 20th century but its existing area has increased to almost 3 000 hectares. In other words, around two thirds of land in Macao comes from reclamation. In comparison, land created by reclamation since the inception of Hong Kong is just some 6 800 hectares, which only accounted for 6% of the total area. Many think that most of the land in Hong Kong is created by reclamation; the above figures prove that this idea is obviously incorrect.

When compared with other options, reclamation has many advantages. For example, it is easier to estimate the land supply, and problems of reconstruction or surplus fill can be solved. As a new community can be established on the reclaimed land, the planning work will become easier. An undesirable point is that it may have impacts on the natural environment, and this

is also the reason why there is strong opposition. I agree that nature conservation is very important but the Government has proposed reclamation at 25 locations outside the Victoria Harbour. I believe that not all these locations will have serious impacts on the natural environment. Thus, I think members of the community should not indiscriminately raise oppositions. As long as the Government can take environmental conservation into consideration, we should support reclamation at suitable locations.

Other options that arouse greater controversy are rezoning and land resumption which may involve a lot of rural and agricultural land. Government figures show that the residential land throughout the territory accounts for only about 7% of the total area of Hong Kong, industrial and commercial land accounts for only 3%, agricultural and fish pond land accounts for 6% while the areas occupied by woodland, shrub and grassland account for 66%. From the above figures, we can conclude that there is actually more land for development in Hong Kong than we have imagined.

According to analysis, the transport development in Northwest New Territories has become increasingly mature and we can expect rapid development to take place with the completion of the Hong Kong-Zhuhai-Macao Bridge. Nevertheless, a lot of land within the area has not yet been developed and there are many deserted agricultural land and green areas. If the Government can select some suitable lands which have less impact on the natural environment to be rezoned for other uses, the land supply will increase tremendously, and subsequently, the need for reclamation can be reduced.

Some Members worry that the development of the deserted agricultural land and green areas may provide incentive to landowners to destroy their agricultural land and green areas for conversion to residential sites. Indeed, it is very likely that such illegal practices will take place, but we cannot give up the development of Hong Kong just because of the illegal acts of some unlawful persons. I believe that the problem can be solved if the Government can improve overall planning and take stringent actions against these wrongful acts.

Today, some Members have proposed the development of the Frontier Closed Area and I strongly concur with them. I will not repeat the advantages of the proposal and I just wish to stress that the Frontier Closed Area can be used as industrial land, so as to support the development of high value-added industries.

There will be another direction for the development of our economy which will develop into a platform for strengthening the exchanges and integration between the Guangdong Province and Hong Kong. I hope the Government would seriously consider this proposal which will serve multiple purposes.

I so submit.

MS AUDREY EU (in Cantonese): President, Mr CHAN Kin-por has just quoted some government figures and he mentioned that the projected increase of our population will reach 8.9 million in 2039. I remember that Mr Donald TSANG, the Chief Executive, has said that our population target is 10 million.

Let us not talk about population growth and just focus on the present situation. I believe Honourable colleagues have the impression that whenever we discuss various policies, the Government will definitely stress the shortage of land. For example, when we discussed about international schools earlier, we mentioned about inadequate school places, but the Government just responded that there was a shortage of land. Many school sponsoring bodies intend to apply for allocation of land, but the Government responded that there is a shortage of land.

As a member of the Panel on Education, I often heard from school sponsoring bodies that their school premises have a history of 30 or 40 years and they intend to relocate to other places; but the Government has indicated that the Kai Tak site is not yet available for application by school sponsoring bodies.

The implementation of My Home Purchase Scheme, public rental housing and HOS housing scheme involve land. Similarly, land is also crucial for hospital development and environmental protection. For instance, when can the Harbour Area Treatment Scheme Stage 2B be implemented? According to the Government, as different government departments are competing for the relevant sites, when the scheme will be implemented is still uncertain.

In addition to land demands arising from population growth, there are other land use demands that have not been met. The Government is conducting a public engagement exercise on "Enhancing Land Supply Strategy" and I really thank the Permanent Secretary of the Development Bureau and the

representatives from the Civil Engineering and Development Department for explaining earlier the contents of this exercise to the Civic Party.

Mr CHAN Kin-por has just mentioned six land supply options in his speech. However, I would like to tell Honourable colleagues that, in the proposals made at the briefing sessions of this Council, on public forums and in the consultation document, the authorities' focal point is not on enhancing land supply strategy but reclamation at suitable locations outside the Victoria Harbour and rock cavern development. The authorities said at the briefing sessions that reclamation could be undertaken at 25 locations and rock cavern development was necessary. These are in fact the focus of the consultation exercise.

On that day, the Civic Party has made it clear to the Government that we did not oppose reclamation but the Government must carry out reclamation works in an orderly manner. For example, it should give an account of the selection of the reclamation sites, the methods to protect the environment and the use of the reclaimed land. However, these issues are not within the scope of the present public engagement exercise. The Government only says that the reclaimed land will build up a land bank (that is land reserve) but it has not told us how the land will be used. We have reflected to the Government that it is hard for the Government to convince the public why it is necessary to carry out reclamation. If residents ask if the reclaimed land will be used for building public rental housing flats, HOS flats, school premises or other purposes, but the Government tells them that the use of land is unimportant, and reclamation should carry out first before announcing the use of the reclaimed land, there will certainly be strong opposition. Hence, I hope the Secretary would understand that it is necessary to conduct comprehensive planning first.

During our discussions on these issues, we often ask if there is a shortage of land in Hong Kong or there are planning issues. The Government frequently states that the developed land in Hong Kong only accounts for 24% of the total land area and over 60% of the land is used for country park, green belt and other conservation purposes. Thus, there are quite a lot of restrictions.

Mr CHEUNG Hok-ming has asked in his original motion whether green belt areas which are devegetated or deserted can be converted into other sites. This is not unfeasible, but there is a psychological threat that some people may

destroy the sites first before developing them later. How can such worries be alleviated? The authorities should work out some clear criteria.

It is most disturbing if the abovementioned item will give rise to such a situation. Mr CHAN Kin-por has just said that this may happen but we cannot stop making efforts because of this reason. In formulating land policies, the Government must make clear provisions because the core of the problem is not on insufficient land but a lot of land has not been properly used as a result of planning or other government policies.

In response to the written question raised by Miss Tanya CHAN on 1 February, the Government stated that there were a total of 263 hectares of land granted by the Government for temporary uses (including open storage, car parks and container yards) and land granted under short-term tenancies for use as vehicle repair workshops and resource recovery parks. The number does not include golf courses, cargo handling sites and MTRCL work sites, and so on. Therefore, we are not saying that brownfield sites cannot be developed and we estimate that the areas of these sites will amount to 655 hectares.

Another common problem is that it seems that there is another set of laws regulating the land in the New Territories. As Mr WONG Sing-chi has just said, when residents in the New Territories seek our help, we cannot provide any assistance even if the Government or The Ombudsman considers that some government departments have not doing a good work. Local residents act like local tyrants. Under such circumstances, though there are lands in the New Territories for development, they have been forcibly occupied for unexplained reasons.

I have discussed the small house issue with the Secretary and I have raised an oral question on this subject, but it seems to me that the Secretary for Development or the SAR Government cannot do anything whenever the small house concessionary rights or lands in the New Territories are concerned. Should the Government first conduct proper planning and effective regulatory control through law enforcement to optimize the use of land in the New Territories before considering reclamation?

The expansion of land resources should complement the population policy. Yet, the SAR Government has not clearly informed us how the use of land

resources should complement the population policy. Hence, I hope the Secretary for Development and the SAR Government would seriously review and consider these points.

Thank you, President.

MR KAM NAI-WAI (in Cantonese): President, concerning the motion debate today on "expanding land resources", I believe Honourable colleagues are aware that excessive land development should be avoided because we have had some painful lessons in the urban development process. Since the Government has seriously neglected environmental conservation in the course of urban development in the past, some old areas have become concrete forests. Problems such as high population density, "wall-effect" buildings, canyon effects and serious air pollution have arisen. These are the adverse consequences arising from our neglect of environmental protection in the past and excessive land development in redeveloping old areas.

The Government has recently made adjustments and it has started restricting the development density in urban areas, especially the waterfront sites, and it has included some development restrictions in the Outline Zoning Plans (OZPs) including the plot ratio, site coverage and building height. It is better late than never. As we all know, even if these restrictions are included, some developers have challenged the OZPs and many developers have taken pre-emptive measure to carry out the development. These situations are very common on the Hong Kong Island and they have basically gone out of control as the development of old areas have become increasingly unfettered. Anyway, as the Government is now ready to implement new planning rules, such as capping building height to alleviate the high building density of urban buildings and to retain the breezeways to improve the environment, thereby reducing the wall effects and the narrow street effects, these measures would be helpful.

On the development of new sites, the Government has proposed rock cavern development and reclamation at suitable locations outside the Victoria Harbour. The Government should carefully address these issues, especially the latter as many environmental protection problems have to be addressed. Are all plans unfeasible then? I have just heard the Secretary talk about a variety of land development options. One option is to transfer the plot ratios from the old

areas or urban areas to the new districts or the New Territories, which is worth considering.

In the past, the Democratic Party has also proposed the plot ratio transfer method to reduce the density of old areas and transfer the plot ratios from old areas to new land or new urban areas. I hope that the Secretary would learn a lesson from the development of old areas in making such transfers. We do not want the development, especially the new town development in Tseung Kwan O, to have adverse effects. At present, new towns like Tseung Kwan O have very high building density, and the designed density of Sha Tin, a new town developed earlier, is also fairly high. So, we should avoid making the same mistakes of excessive development, and we should also avoid the re-appearance of "wall-effect" buildings, blockage of the ridgeline and misuse of the waterfront sites. We would not like to see the recurrence of the above situations.

As Honourable colleagues may have learnt earlier, many trees on some islands such as the Po Toi Island had been cut to clear sites for illegal construction of storage places for "kam tap" or urns. Even government lands have been illegally occupied. The so-called development is extremely worrying.

Moreover, I have just heard many Honourable colleagues say that a lot of land in Hong Kong has not been opened up and developed. Hong Kong has a land area of more than 1 100 sq m, and information indicates that the built-up areas only take up 23.7%, which is less than 24%, reflecting that many places have not yet been developed.

Besides land development, I believe the motion debate today has two other focal points on which Members have divergent views. The first point is "appropriately relaxing the plot ratio for rural residential land and enhancing the transparency of premium payment". The second point is, as mentioned by some Members, comprehensively looking into the use of green belt areas and agricultural land in the New Territories which are deserted, and converting them into housing sites. I believe these are the focal points of the whole discussion.

The Democratic Party thinks that appropriate relaxation of the plot ratio for rural residential land should be premised on improving the planning and design of new development areas or new towns, and there should be complete blueprints for reference. Furthermore, plans have frequently been made for the

development of Comprehensive Development Areas in the urban areas. The development of lands in the New Territories is premised on the planning of new towns, so as to set the appropriate plot ratio of rural land. The development should be carried out after public consultation and with public participation.

The Democratic Party proposes this amendment to the original motion for requiring sufficient public consultation and public participation. If such work is not undertaken, many people may worry if there is collusion between the Government and business, and the two parties may in private develop the land and change the plot ratio. We would not like to see such a scenario. Hence, we hope that the Government would make proper planning in developing new sites.

Some Members have just mentioned looking into the use of green belt areas and agricultural land in the New Territories which are deserted or formed, thus no longer performing their original functions, and converting them into housing sites. This is also a matter of our concern. Thus, the Democratic Party has proposed an amendment, hoping that related regulation can be made in the OZPs. All the revisions to be made to the OZPs must also be appropriate and we will only consider the proposals as worth considering after such additional factors have been included.

I so submit, President.

MS CYD HO (in Cantonese): President, land has value if it is optimized by people. Regardless of whether land is used for building hospitals, schools or flats, or preserved as green belt areas, it aims to bring benefits to members of the public. Only this can be regarded as a "people-based" policy.

However, let us first look at the original motion. It says right at the beginning that "..... estimates that Hong Kong's population will reach 8.9 million in 2039". Since 2039 is 27 years away from 2012, the Government should first consult Hong Kong people on the population policy to see if they would like to have 8.9 million people living in this tiny city. As evident from the local birth rates in the past, population size will gradually diminish once the replacement rate stabilizes. And yet, the projection has included tens of thousands of immigrants coming to Hong Kong each year, thereby pushing the

population up to 8.9 million by 2039. Something can be done to control Hong Kong's population. Before setting the population target, we should carry out consultation and formulate population policies to see if we should continue to absorb such a large number of immigrants. If the discussion on population policy precedes that of land, we may wonder if large-scale reclamation projects are essential, do we need a world-shaking reclamation project to link up Cheung Chau and Ping Chau?

President, we should not arbitrarily propose reclamation before formulating a population policy. While there is currently a sincere demand for land, we do have other alternatives. One viable measure is to re-provision certain public facilities which are currently at the ground level to rock caverns. Given that reclamation may cause permanent damage to the environment, it must be carried out after careful consideration.

Furthermore, noting that there are different land formation techniques, we had asked the Secretary at Panel meetings the amount of land to be provided each year. The formed land, however, may not necessarily address the housing problems currently faced by the grassroots. We had asked the Secretary the amount of land to be allocated for building public rental housing (PRH). This is nonetheless not within her purview. Thus, no specification has been made to the percentage of newly formed land used for building PRH. Therefore, any attempt to expand land by reclamation or other ways will not improve the living conditions of the grassroots, but merely provide land for building luxury flats or houses of 6 000 sq ft. If that is the case, I am sorry that we cannot agree to such large-scale reclamation projects to increase land supply, simply for building luxury flats for a handful of people.

Furthermore, I have great reservation about paragraph (d) of the original motion. It proposes to "look into the use of green belt areas and agricultural land in the New Territories which are devegetated, deserted or formed, thus no longer performing their original functions, and convert them into housing sites". We are very concerned and there were cases where landowners deliberately destroyed their land in the hope of turning it to more valuable residential sites. They had, for instance, dumped mud into fishing ponds making fish farming impossible, or they simply covered the farmland with cement. Therefore, if we hastily endorse the original motion or support the Government's rezoning proposal without enacting any law to preserve our existing green belt areas or to

safeguard and review local farmland policies, the New Territories and even the Lantau Island may eventually become a concrete jungle. In that case, the 7.07 million Hong Kong people will have nowhere to take a breath of fresh air.

Another issue is the small house problem. President, entitlement to small houses was essential when the issue first came to light. Given that the British Hong Kong Government had to resume land or fish ponds from people to build roads, bridges or develop new towns, this might deprive them of their means of living. Therefore, I agree to give each farmer or fish farmer affected a house as compensation. And yet, as time has changed, indigenous villagers can now have a chance to receive higher education and many of them are even professionals. Is it still necessary for us to give each male villager a small house? Is it still necessary to preserve the small house policy to enable each male indigenous villager to own a house at birth? We need to consider when the small house policy should be abolished and specifically set a date to put an end to the entitlement of small house of indigenous villagers, so as to do justice to urban residents who live in an extremely crowded environment.

I am well aware that this is a complicated political bomb. Before the handover of sovereignty in 1997, there were attempts to include the entitlement of small house of indigenous villagers during the talks in Beijing. However, we should not allow such right to pass on for generations as Hong Kong will eventually be comprised of two kinds of people: some born with a house without the need to face any housing problem, while some have to wait some seven to eight years for their turn to move into public housing units.

President, I so submit.

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

MR LEUNG KWOK-HUNG (in Cantonese): President, we will only have money if we have land. Land is certainly very important. Our Government is busy expanding land resources. The Chief Executive has rented a flat at low price in Shenzhen. I think the person so-called "Shenzhen LI Ka-shing" is marvellous, right? This "Shenzhen LI Ka-shing" has a "WONG's field" in Shenzhen, and it so happened that the Chief Executive, who knew him, was

sucked into his field. Are the developments in Qianhai and the Loop not an art of "alchemy"? The land price used to be rather low, but it surged after our Chief Executive proposed the development of six industries with competitive edge in the area. Mr WONG Yuk-man referred them as "six major out-and-out damned industries", meaning that the entire family has to survive on such industries, which include education services, medical services, innovation and technology, and so on. They are all inclusive. Two pieces of land, which are in close proximity to the Mainland, have been reserved for this purpose. Mr WONG Cho-bau, also called "Shenzhen LI Ka-shing", thus reacted at once. He was pretty sure that the price of the land in close proximity to these two pieces of land will stand a good chance of rising as a result of the Government's proposed six industries with competitive edge and the two designated zones. It so happened that the Chief Executive had to look for a flat. What a coincidence!

Such an art of "alchemy" is really amazing and the six industries with competitive edge are the primary focus of "Old TSANG". After all, it is a matter of land. Some frustrated property developers have joined one of the election camp, they are businessmen who could not carry out development projects during the TUNG Chee-hwa era, like Vincent LO, who have responded to the call of the Chinese Communist Party and went to Shanghai to develop his business. Another team member is the "head" of the Urban Renewal Authority (URA). He quitted the job and rolled up its sleeves to help LEUNG Chun-ying climb to the highest echelon. Frankly, he aims to secure development projects in return. The URA was established with public financing, laws were enacted to empower the URA to get land for development in the name of the URA. As Mr Barry CHEUNG has asked, "Who else can you work with apart from property developers?" He has really hit the nail on the head. The Government has provided \$10 billion to the URA. If the URA has to undertake large-scale projects, it has to seek the co-operation of some other property developers.

The terminus of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (XRL) finally sits on the West Kowloon Cultural District (WKCD) just for one reason, that is, to safeguard this piece of land. This Council and the general public were outraged by the "single package" tender proposal of the WKCD. They feared that it would become a real estate development project. All these happened during the TUNG Chee-hwa era when LEUNG Chun-ying was TUNG's right-hand man or Chief of Staff. All these have something to do with property developments. In fact, we can possibly find

traces of property developments in this Chief Executive election. Today, we urge that more land resources should be explored. But what is the use of these resources? How will the land resources be used? The land will not be used to satisfy the housing needs of Hong Kong people who are suffering from a shortage of land, or satisfy people's needs for clothing, food or transport. Nor will be used for building hospitals. Take my constituency as an example. Of the two hectares of land granted by the Government to the Union Hospital, only one hectare of land was used to build hospital. Another hectare was used to build housing flats though premium payment had to be made. How can we have such a policy? It is under such policy that Donald TSANG was invited to taste abalone and have trips on private yachts and jets.

President, I think that town planning is indeed an imperialistic term. The British did planning when they carried out industrial development, and planning in this sense actually means the seizure of land. The planning of land done by our Government today is no different. Firstly, how can it explore more land and make a fortune by selling it at high price? Secondly, in order to maintain the high land price, the Government must shore up property prices so that land price will remain high forever. If you think that the expansion of land resources under discussion today will lower the price of "flour", I can tell you that this will never happen. Regarding the expansion of land resources under discussion today, the only thing we can do is to ask Secretary Carrie LAM one question. In fact, the Government should govern according to one principle: Land is a public resource. According to Article 7 of the Basic Law, land is State property and the SAR Government has been entrusted to grant land. The revenues derived therefrom shall be at the disposal of the SAR Government. Should government policies serve to provide people with clothing, food, housing and transport, as well as hospital facilities? If there are no plans to meet the needs of the 6.9 million people, there is no point of expanding land resources. In the past, town planning was tantamount to increasing urban saleable land by expelling the residents. The British had been doing this for too long, it is just that people nowadays consider town planning a good deed.

Therefore, President, just take a look at WONG Cho-bau, Donald TSANG, LEUNG Chun-ying, Barry CHEUNG and the property developer Vincent LO of his camp, you can see that today's proposal is actually an additional source of revenue (*The buzzer sounded*)

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

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): Mr CHEUNG Hok-ming, you may now speak on the four amendments. You may speak up to five minutes.

MR CHEUNG HOK-MING (in Cantonese): President, the motion moved by me today has attracted amendments from a total of four Members. First of all, I would like to speak on Mr CHAN Hak-kan's amendment. In my original motion, he added the proposal of optimizing land resources released from the opening of the Frontier Closed Areas. This is actually the long-standing stance of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB). His amendment has therefore enriched my motion.

For the last amendment which was moved by Mr Albert CHAN, he has included in my original motion the proposal to draw up "an annual 10-year 'rolling mechanism for land supply'". As the Secretary has said, this is a desirable measure and thus the DAB agrees to this amendment.

Regarding Mr LEE Wing-tat's amendment, although he has not deleted anything from my original motion, he proposed to allow households affected by land resumption to apply for purchasing Home Ownership Scheme (HOS) flats without having to undergo income and asset tests. The DAB opined that this should be dealt with in a cautious manner. Members may recall that even in the Choi Yuen Tsuen case, the affected households were not fully exempted from the income and asset tests. This is because if any member of the household applying for the purchase owns any property, the entire household will no longer be eligible for this special assistance. In other words, for the sake of fairness, households owning any property are not allowed to purchase HOS flats.

In Miss Tanya CHAN's amendment, she pointed out that the Government should strike an appropriate balance between development and conservation

when formulating a land policy. While we agree to this, the original motion has only proposed to comprehensively look into the use of agricultural land and green belt areas which are no longer performing their original functions to see if they can be utilized in other areas, with special consideration to be made to convert them for residential use. However, the amendment has deleted even the words "look into", which apparently runs counter to the advocated principle of balancing development and conservation.

The amendment has encouraged property owners in old districts to participate in urban renewal on the one hand, but refused to support landowners to participate in the development of new development area on the other by deleting the relevant part in the original motion. I think this represents a double standard. After all, the original motion only proposes to consider the specific arrangements. How they should be implemented warrants further discussion. We really do not understand what is wrong with the proposal.

Last of all, regarding the proposal made by Mr LEE Wing-tat and Miss Tanya CHAN to include land in the New Territories into the statutory plans, the DAB is open-minded. We only hope that the authorities will sufficiently consider the views of the landowners and affected residents, and respect the lawful rights of landowners when formulating the plans. If they decide to preserve the land for conservation or designation as country parks, reasonable compensation should be made to the landowners concerned. Thank you, President.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, first of all, I have to thank the other 12 Members for their enthusiasm to speak on this motion, even though this meeting of the Legislative Council has lasted for more than 20 hours.

In every motion debate, Members will capitalize on the opportunity to express their views on various aspects. It is only natural, yet sometimes they have gone far off the track. The earlier speech of Mr LEUNG Kwok-hung is a case in point. I do not think I need to respond to any of the points mentioned, for he has deviated significantly from the subject. Certainly, many Members have talked about population policy, housing, employment and small house policy, given that land is required to meet various needs of society and the

7 million people. In order to focus on the subject of the motion today, I cannot respond to each and every one of these important subjects.

In my relatively lengthy opening speech earlier, I have addressed the issues raised by a number of Members, such as Mr WONG Yung-kan's concern about marine ecology and the fisheries industry and Mr TAM Yiu-chung's concern about the Northern Link, the restructuring of industrial districts and the fragmented ownership, and so on. Regarding the point raised by Mr WONG Kwok-hing that special attention on planning should be paid in land formation for new town development, it is indeed the focus of our work. Hence, I would only make a comprehensive response to several issues in my concluding speech.

When I assumed office as the Secretary for Development in 2007 and be responsible for land policies, one of the questions that I asked my colleagues was whether Hong Kong had sufficient land. The fact is that the developed area accounts for 23.7% (around 263 sq km) of the total 1 100 sq km land area in Hong Kong, where a large part of the area is created by reclamation. It reflects that reclamation was a major source of land supply for our economic and social development in the past. Among the remaining 845 sq km of land, which accounts for 76.3% of the total area, an area of about 508 sq km, about 46% of the total area in Hong Kong, is country park area and special area subject to statutory control at present. Members have also mentioned this point earlier. It is correct that we still have some 300 sq km undeveloped land and farmland. However, it is usually difficult to develop these sites, which include wetland, wetland conservation areas, wetland buffer areas, catchment area, mountains, slopes and woodland. All these sites are unsuitable or impossible for development. As for other sites, there are many constraints in development. Regarding potential farmland for development, a majority of these sites are privately owned with fragmented ownership, where fundamental facilities are lacking. Hence, it is no easy task to explore adequate land supply in Hong Kong to meet our demand in various aspects. For this reason, we emphasize the need to adopt a multi-pronged approach.

Economic development should not be the sole purpose for expanding land resource, nor should it be carried out merely for reaping revenue from land sales. It is true that revenue from land sales accounts for a significant part of the overall income of the Government, enabling the Government to meet the needs in education, medical care, healthcare and welfare. However, land resources, like

manpower resources and financial resources, should be used for satisfying the needs of the 7 million people in Hong Kong in various aspects, including housing, economic development, industrial development, hospital, as well as the housing and other needs of the elderly arising from ageing population as mentioned by Dr Raymond HO. All these demands have to be met with the support of land resources.

Ms Audrey EU asked why the current public engagement exercise on enhancing land supply seemed to focus on reclamation. Indeed, I have touched on this issue in my opening remarks. Since members of society are in general familiar with other options on expanding land resources, such as the rezoning of sites or the planning of new development districts, we consider it appropriate to continue to adopt the existing approach for public engagement. For instance, very detailed procedures for public engagement have been laid down for the "Three-in-one" New Development Areas in North East New Territories, the Hung Shui Kiu New Development Area and the remaining development in Tung Chung. As for rezoning, the rezoning industrial sites to residential purpose, as well as the rezoning of "Government, Institution or Community" use sites to housing land, town planning procedures with a specific degree of transparency and public engagement have been put in place.

In comparison, the two options proposed this time, that is, the reclamation on an appropriate scale outside Victoria Harbour and the active exploration of the development of rock caverns, are relatively unfamiliar to most people, or they may be resistant to these options. Hence, in the consultation on enhancing land supply this time, we focus on the examination of the pros and cons for reclamation outside Victoria Harbour and the promotion of the development of rock cavern. We understand that the discussion of the reclamation proposal will cause worries, we have thus set aside adequate time for the work with a view to have joint discussion with the public in phrases. During the past four to five years, the Development Bureau had adopted this mode of joint discussion in handling a number of subjects, such as the review on urban renewal strategy and heritage conservation, which had been quite effective in those cases. Hence, I hope Members will support and trust us, so that this significant public engagement exercise on expanding land resources in Hong Kong will be carried out continuously as scheduled.

The reason for stating the importance of reclamation and examining the reclamation option is that we will not, or it is impossible for us, to obtain large area of land by rezoning deserted farmland, green belt area or industrial land. In comparison, reclamation is a cost-effective option in providing large scale of land. Besides, it will not involve land resumption and demolition, and will enable the retaining of country parks, wetland, conservation areas or sites of specific scientific interest. Moreover, it is a favourable option for building up a land reserve. According to the concept of land reserve, predestinated purposes will not be laid down for land obtained from reclamation. However, we undertake that the public engagement approach will be adopted in the town planning procedures for land created by reclamation, and the authorities will have in-depth discussion with the public, particularly the District Councils and local residents.

In the course of public engagement, some members of the public have taken the lead to convey their views on land use to us. For instance, some people have expressed that they do not mind reclamation at certain locations, yet they hope that the land created by reclamation will not all be used for housing, and will be used for providing additional open space or tourist facilities which are lacking in the districts. We hear those views. However, I must emphasize that we have initiated the discussion of reclamation outside the Victoria Harbour as we have to deal with two imminent problems. The first problem is the effective handling of the large amounts of surplus public fill generated from infrastructure works and other projects. We must identify a solution compatible to the sustainable development principle and is environment friendly. Another concern is to the handling of the large amount of contaminated sediment generated from the operation of the fairway in Hong Kong. These two concerns are also significant justifications for us to commence the discussion on reclamation at present.

Finally, I would like to respond to the issues raised by Mr WONG Sing-chi, for his speech is somehow different from other Members today. With the background of a social worker, Mr WONG Sing-chi hopes that the authorities will give more regard to the feelings of the residents when it carries out land resumption or demolition work in the New Territories for land development. I fully agree with him in principle. In fact, my participation in the development work in the past few years made me aware that a humanized approach must be adopted and work should be carried out to minimize disputes in society. In the past three years, with the support of the Chairman and Vice-Chairman of Heung

Yee Kuk, I carried out the demolition work in Chuk Yuen Village to make way for the boundary facilities development at Liantang/Heung Yuen Wai. With my experience in the past three years, I realize that law — the rule of law — is not the only guiding principle in demolition work. According to the rule of law, the authorities are not obliged to offer compensation to residents who do not have land right or property right. However, we must give regard to the law, common sense and feelings. This approach of giving regard to the law, common sense and feelings will bring heavy burden to the public coffers. In any cases, I can tell Honourable Members that we will do our level best to be "people-oriented" in carrying out the work. As noticed by a number of Members, in the past few years, we have managed to remain truly "people-oriented" in the redevelopment and renewal of old urban areas.

At last, I again would like to thank Mr CHEUNG Hok-ming for proposing the original motion today, the four Members for proposing their amendments and the 12 Members for giving their speeches. I hope that in expanding land resources in future, we will have more in-depth exchanges with Members. Thank you, President.

PRESIDENT (in Cantonese): Mr CHAN Hak-kan, you may now move your amendment to the motion.

MR CHAN HAK-KAN (in Cantonese): President, I move that Mr CHEUNG Hok-ming's motion be amended.

Mr CHAN Hak-kan moved the following amendment: (Translation)

"To add ", given that" after "That"; to add ", and have materialized the opening of the Frontier Closed Area" after "sites outside the Victoria Harbour"; to delete "and" after "the ecological environment;"; and to add "; and (g) expedite the development of the Lok Ma Chau Loop and Liantang/Heung Yuen Wai Boundary Control Point, and formulate a concrete plan for developing the land of the former Frontier Closed Area, so as to optimize the use of 2 400 hectares of land as released" immediately before the full stop."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr CHAN Hak-kan to Mr CHEUNG Hok-ming's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Fred LI rose to claim a division.

PRESIDENT (in Cantonese): Mr Fred LI has claimed a division. The division bell will ring for five minutes.

(After the division bell stopped ringing)

PRESIDENT (in Cantonese): A quorum is not present, will the Clerk please ring the bell to summon Members.

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

PRESIDENT (in Cantonese): Members please return to their seats for the Clerk to make a head count.

(A quorum is present in the Chamber)

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

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

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Abraham SHEK, Ms LI Fung-ying, Mr Jeffrey LAM, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Kwok-him and Dr PAN Pey-chyou voted for the amendment.

Mr CHEUNG Man-kwong abstained.

Geographical Constituencies:

Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr Albert CHAN voted for the amendment.

Mr LEUNG Yiu-chung and Ms Cyd HO voted against the amendment.

Mr Fred LI, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung and Miss Tanya CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 11 were present, 10 were in favour of the amendment and one abstained; while among the Members returned by geographical constituencies

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

MR FRED LI (in Cantonese): President, I move that in the event of further divisions being claimed in respect of the motion on "Expanding land resources" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by Mr Fred LI be passed.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

I order that in the event of further divisions being claimed in respect of the motion on "Expanding land resources" or any amendments thereto, this Council do proceed to each of such divisions immediately after the division bell has been rung for one minute.

PRESIDENT (in Cantonese): Mr LEE Wing-tat, you may now move your amendment.

MR LEE WING-TAT (in Cantonese): President, I move that Mr CHEUNG Hok-ming's motion be amended.

Mr LEE Wing-tat moved the following amendment: (Translation)

"To delete "the Government estimates that" after "That" and substitute with ", according to the projection of the Government,"; to delete "innovate" after "(b)" and substitute with "strengthen public participation through public consultation for perfecting the planning and design of new development areas or new towns, and study using innovative ideas"; to add "including allowing affected households to apply for purchasing Home Ownership Scheme flats without having to undergo income and asset tests," after "mechanism for land resumption,"; to delete "thus no longer performing their original functions, and convert them into housing sites" after "deserted or formed," and substitute with "regulate the use and development of the land in the New Territories, expeditiously include the land in the New Territories in the Outline Zoning Plan, and draw up a draft development permission area plan for the land adjacent to country parks, so as to actively combat 'destroy first, develop later' practices, restore the damaged natural environment to the original state, and convert the lands which no longer perform their original functions into housing, commercial, cultural and eco-tourism sites, etc."; to delete "release as a mandatory requirement" after "outside the Victoria Harbour," and substitute with "ensure as a mandatory requirement that such reclamation works projects will not cause serious impact on the nearby marine ecological environment and the development of nearby areas, and that the land use under the relevant development plans suits Hong Kong's long-term development and have the support of appropriate ancillary

measures and social consensus, release"; to add "and adopt remedial measures" after "and make compensation"; and to delete "fishermen" after "respect of affected" and substitute with "people (including fishermen)".

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

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

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Abraham SHEK, Mr Jeffrey LAM, Prof Patrick LAU, Mr CHAN Kin-por and Mr IP Kwok-him voted against the amendment.

Ms LI Fung-ying and Dr PAN Pey-chyou abstained.

Geographical Constituencies:

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

Mr LEUNG Yiu-chung, Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Ms Cyd HO, Mr CHAN Hak-kan and Dr Priscilla LEUNG voted against the amendment.

Ms Audrey EU, Mr WONG Kwok-hing, Mr Ronny TONG, Mr Alan LEONG and Miss Tanya CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 11 were present, one was in favour of the amendment, eight against it and two abstained; while among the Members returned by geographical constituencies through direct elections, 19 were present, seven were in favour of the amendment, six against it and five abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Miss Tanya CHAN, you may move your amendment.

MISS TANYA CHAN (in Cantonese): President, I move that Mr CHEUNG Hok-ming's motion be amended.

Miss Tanya CHAN moved the following amendment: (Translation)

"To add "the land in Hong Kong falls short of the demand in recent years, thereby directly driving up property prices, therefore a comprehensive land policy is very important to society;" after "That"; to add "strike an appropriate balance between development and conservation when formulating a land policy, and to" after "urges the Government to"; to add "(b) expeditiously include all lands within the territory of Hong Kong in statutory plans, so as to monitor the planned use of all lands and regulate the development of land resources; (c) comprehensively review the Town Planning Ordinance and the functions of the Town Planning Board, and strengthen the Town Planning Board's independence and effectiveness in monitoring, vetting and approving plans for developing land resources;" after "stabilize land supply;"; to delete the original "(b)" and substitute with "(d)"; to delete "including studying allowing owners of private lands to participate in the land development of new development areas or new towns, appropriately relaxing the plot ratio for rural residential land, and enhancing the transparency of premium payment" after "on private lands," and substitute with "and strengthen the support and co-ordination for property owners in old districts to participate in redeveloping old districts, and incorporate conservation elements such as historical buildings and local cultural features in the course of redeveloping old districts"; to delete the original "(c)" and substitute with "(e)"; to add "as well as the rehousing and removal arrangements for affected residents" after "mechanism for land resumption"; to delete "(d) comprehensively look into the use of green belt areas and agricultural land in the New Territories which are devegetated, deserted or formed, thus no longer performing their original functions, and convert them into housing sites;" after "new development areas;" and substitute with "(f) strengthen the enforcement of the Town Planning Ordinance and other relevant laws to prevent land owners from damaging the agricultural land and land in green belt areas and from developing residential sites by unlawful means, so as to ensure the lawful and sustainable development of land resources;"; to delete the original "(e)" and substitute with "(g)"; and to delete the original "(f)" and substitute with "(h)"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Miss Tanya CHAN to Mr CHEUNG Hok-ming's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr IP Kwok-him rose to claim a division.

PRESIDENT (in Cantonese): Mr IP Kwok-him claimed a division. The division bell will ring for one minute.

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

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

Functional Constituencies:

Mr CHEUNG Man-kwong and Dr PAN Pey-chyou voted for the amendment.

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Mr Abraham SHEK, Mr Jeffrey LAM, Prof Patrick LAU, Mr CHAN Kin-por and Mr IP Kwok-him voted against the amendment.

Ms LI Fung-ying abstained.

Geographical Constituencies:

Mr Fred LI, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Audrey EU, Mr WONG Kwok-hing, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Dr Priscilla LEUNG, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN and Mr Albert CHAN voted for the amendment.

Mr TAM Yiu-chung, Mr CHEUNG Hok-ming and Mr CHAN Hak-kan voted against the amendment.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 11 were present, two were in favour of the amendment, eight against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 19 were present, 15 were in favour of the amendment and three against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negated.

PRESIDENT (in Cantonese): Mr Albert CHAN, you may move your amendment.

MR ALBERT CHAN (in Cantonese): President, I move that Mr CHEUNG Hok-ming's motion be amended.

Mr Albert CHAN moved the following amendment: (Translation)

"To delete "and" after "of land reserve," and substitute with "draw up an annual '10-year rolling mechanism for land supply' and regularly inject new lands to serve as reserve so as to ensure that Hong Kong can"; and to delete "so as to" after "sustainable development approach," and substitute with "and to"."

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the amendment, moved by Mr Albert CHAN to Mr CHEUNG Hok-ming's motion, be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Mr LEE Wing-tat rose to claim a division.

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

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

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

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms LI Fung-ying, Mr Jeffrey LAM, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Kwok-him and Dr PAN Pey-chyou voted for the amendment.

Mr Abraham SHEK voted against the amendment.

Mr CHEUNG Man-kwong abstained.

Geographical Constituencies:

Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr LEUNG Kwok-hung and Mr Albert CHAN voted for the amendment.

Mr LEUNG Yiu-chung and Ms Cyd HO voted against the amendment.

Mr Fred LI, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Mr Ronny TONG, Mr KAM Nai-wai, Mr WONG Sing-chi, Mr Alan LEONG and Miss Tanya CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 11 were present, nine were in favour of the amendment, one against it and one abstained; while among the Members returned by geographical constituencies through direct elections, 19 were present, seven were in favour of the amendment, two against it and nine abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the amendment was negatived.

PRESIDENT (in Cantonese): Mr CHEUNG Hok-ming, you may now reply and you have two minutes 15 seconds.

MR CHEUNG HOK-MING (in Cantonese): President, up to now, we have had a meeting for two days. I am happy to see that more than 10 Members have raised proposals on this motion and the Secretary has responded. I would like to express my thanks to them all.

Even though Honourable colleagues have divergent views on today's motion about expanding land resources, they have reached a consensus that

expanding land resources is essential to our future land development and the solution of our housing problem. Hence, I thank Members for their support and I hope the Government has also heard their voices.

Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the motion moved by Mr CHEUNG Hok-ming be passed.

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

(Members raised their hands)

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

(Members raised their hands)

Miss Tanya CHAN rose to claim a division.

PRESIDENT (in Cantonese): Miss Tanya CHAN has claimed a division. The division bell will ring for one minute.

(After the division bell had stopped ringing)

PRESIDENT (in Cantonese): A quorum is not present. Will the Clerk please ring the bell to summon Members?

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

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

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

Functional Constituencies:

Dr Raymond HO, Mrs Sophie LEUNG, Mr WONG Yung-kan, Ms Miriam LAU, Mr Abraham SHEK, Ms LI Fung-ying, Mr Jeffrey LAM, Prof Patrick LAU, Mr CHAN Kin-por, Mr IP Kwok-him and Dr PAN Pey-chyou voted for the motion.

Mr CHEUNG Man-kwong voted against the motion.

Geographical Constituencies:

Mr TAM Yiu-chung, Mr CHEUNG Hok-ming, Mr CHAN Hak-kan, Dr Priscilla LEUNG and Mr Albert CHAN voted for the motion.

Mr Fred LI, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr LEE Wing-tat, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi and Mr LEUNG Kwok-hung voted against the motion.

Ms Audrey EU, Mr Ronny TONG, Mr Alan LEONG and Miss Tanya CHAN abstained.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 12 were present, 11 were in favour of the motion and one against it; while among the Members returned by geographical constituencies through

direct elections, 18 were present, five were in favour of the motion, eight against it and four abstained. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11 am on Wednesday, 21 March 2012.

Adjourned accordingly at five minutes to Ten o'clock.