

# OFFICIAL RECORD OF PROCEEDINGS

Wednesday, 9 January 2013

The Council met at Eleven o'clock

## MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE ALBERT HO CHUN-YAN

THE HONOURABLE LEE CHEUK-YAN

THE HONOURABLE JAMES TO KUN-SUN

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

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

THE HONOURABLE WONG KWOK-HING, M.H.

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

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

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

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

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

THE HONOURABLE CYD HO SAU-LAN

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

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

THE HONOURABLE CHAN HAK-KAN, J.P.

THE HONOURABLE CHAN KIN-POR, B.B.S., J.P.

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

DR THE HONOURABLE LEUNG KA-LAU

THE HONOURABLE CHEUNG KWOK-CHE

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

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

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

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

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

THE HONOURABLE LEUNG KWOK-HUNG

THE HONOURABLE ALBERT CHAN WAI-YIP

THE HONOURABLE WONG YUK-MAN

THE HONOURABLE CLAUDIA MO

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

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

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

THE HONOURABLE STEVEN HO CHUN-YIN

THE HONOURABLE FRANKIE YICK CHI-MING

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING

THE HONOURABLE GARY FAN KWOK-WAI

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

THE HONOURABLE CHARLES PETER MOK

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN

DR THE HONOURABLE KENNETH CHAN KA-LOK

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

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

THE HONOURABLE KENNETH LEUNG

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

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG

THE HONOURABLE DENNIS KWOK

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

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

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

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, J.P.

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

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

THE HONOURABLE TANG KA-PIU

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

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

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE TONY TSE WAI-CHUEN

**MEMBERS ABSENT:**

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

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

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

**PUBLIC OFFICERS ATTENDING:**

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

PROF THE HONOURABLE ANTHONY CHEUNG BING-LEUNG, G.B.S.,  
J.P.  
SECRETARY FOR TRANSPORT AND HOUSING

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

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

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

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

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

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

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

THE HONOURABLE PAUL TANG KWOK-WAI, J.P.  
SECRETARY FOR THE CIVIL SERVICE

DR THE HONOURABLE KO WING-MAN, B.B.S., J.P.  
SECRETARY FOR FOOD AND HEALTH

THE HONOURABLE WONG KAM-SING, J.P.  
SECRETARY FOR THE ENVIRONMENT

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

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

**CLERKS IN ATTENDANCE:**

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

MRS JUSTINA LAM CHENG BO-LING, DEPUTY SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MISS ODELIA LEUNG HING-YEE, ASSISTANT SECRETARY GENERAL

MRS PERCY MA, ASSISTANT SECRETARY GENERAL

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

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

## TABLING OF PAPERS

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

Subsidiary Legislation/Instruments	<i>L.N. No.</i>
Telecommunications (Telecommunications Apparatus) (Exemption from Licensing) (Amendment) Order 2012 .....	190/2012
Allowances to Jurors (Amendment) Order 2012 (Commencement) Notice.....	191/2012
Criminal Procedure (Witnesses' Allowances) (Amendment) Rules 2012 (Commencement) Notice .....	192/2012
Coroners (Witnesses' Allowances) (Amendment) Rules 2012 (Commencement) Notice.....	193/2012
Designation of Libraries (Amendment) Order 2013 .....	1/2013

## Other Papers

- No. 57 — Report by the Controller, Government Flying Service on the Administration of the Government Flying Service Welfare Fund for the year ended 31 March 2012
- No. 58 — Agricultural Products Scholarship Fund  
Report for the period from 1 April 2011 to 31 March 2012
- No. 59 — Hong Kong Council for Accreditation of Academic and Vocational Qualifications  
Annual Report 2011-12

**ORAL ANSWERS TO QUESTIONS**

**PRESIDENT** (in Cantonese): Questions. First question.

**Display of Roadside Non-commercial Publicity Materials**

1. **MR CHAN CHI-CHUEN** (in Cantonese): *President, any person who displays roadside publicity materials without the written permission of the Authority given under the Public Health and Municipal Services Ordinance commits an offence. Moreover, the Management Scheme for the Display of Roadside Non-commercial Publicity Materials Implementation Guidelines provide that the display of publicity materials at central dividers of roads, pedestrian crossings and within 30 m of traffic upstream side of road junctions is prohibited. Nevertheless, quite a number of members of the public have complained to me that a large number of banners were hung by organizations professing love for the Motherland and Hong Kong on the streets in Yau Tsim Mong District in recent months, and some of them were even hung in the no banner zones. These members of the public have lodged complaints with the Food and Environmental Hygiene Department (FEHD), but the FEHD has neither instituted prosecution against the persons concerned nor removed such banners. In this connection, will the Government inform this Council:*

- (a) *apart from the banners removed for the general elections of the Legislative Council and District Councils, of the number of unauthorized banners displayed on the streets which were removed by the authorities in the past three years, and the total amount of fines imposed on the persons concerned;*
- (b) *whether, in the last half-year, the authorities had received and approved applications for hanging the aforesaid banners; if so, of the details; if approval had not been given, the reasons for the authorities not removing the banners and instituting prosecutions; and*
- (c) *whether measures are in place at present to prevent the situation of a large number of unauthorized banners being displayed on the streets or such a situation from worsening?*



**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the Lands Department (LandsD) has implemented the "Management Scheme for the Display of Roadside Non-commercial Publicity Materials" (Management Scheme) since May 2003 to manage the display of non-commercial publicity materials on the roadside, and made revisions to the "Implementation Guidelines" of the Management Scheme in August 2011. The non-commercial publicity materials in question are usually displayed by non-profit-making organizations, District Councils and their committees, as well as members of the Legislative Council and District Councils and so on for the purpose of promoting/publicizing activities that are non-commercial or of interest to the public, and disseminating information that is of general interest or use to the public.

For the purpose of implementing the Management Scheme, some officers in LandsD are authorized to give permission for the display of roadside non-commercial publicity materials under the Public Health and Municipal Services Ordinance, exercising authority delegated from the Director of Food and Environmental Hygiene. For the display of publicity materials that is verified by LandsD as being unauthorized or noncompliant with the Implementation Guidelines, the FEHD will remove them and recover the removal costs from the parties concerned under the above Ordinance.

The FEHD conducts joint operations with LandsD regularly to remove publicity materials the display of which is unauthorized or non-compliant with the Implementation Guidelines. For cases involving unauthorized display of non-commercial publicity materials, the Government will, apart from recovering the removal costs from the persons concerned, decide whether to prosecute the persons who are the owners of or will benefit from such publicity materials, having regard to the circumstances of each case and the relevant law.

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

- (a) The following number of non-commercial publicity materials were removed in the past three years (excluding those pertaining to the general elections of the Legislative Council and District Councils): 6 355 in 2010; 5 768 in 2011; and 2 189 in 2012 (January to November). The removal costs recovered from the persons concerned amounted to \$275,044 in 2010; \$384,527 in 2011; and \$232,158 in 2012 (January to November).

(b) and (c)

As regards the complaints about the large number of suspected unauthorized banners which appeared on the streets in Yau Tsim Mong District in recent months, the FEHD's investigations revealed that this was stemming from the putting up of banners by two organizations to express their views in public areas. The Records of the respective district lands offices of the LandsD showed that these banners were displayed without the requisite permission of the lands offices. The FEHD has reminded the persons-in-charge at the scene to take note of the relevant provisions laid down in the Management Scheme and the legislation. As regards cases where the manner in which the organizations displayed the banners might pose safety concerns to pedestrians and motorists using the road concerned, the FEHD has referred them to the police for follow-up action. The FEHD and the relevant departments will continue to keep in view the situation and follow up as appropriate. Where necessary, we would take prosecution action.

**MR CHAN CHI-CHUEN** (in Cantonese): *President, I think the Bureau has not faced this problem squarely and does not want to address it. I would like to declare first. This problem has not only been found in the busy areas in Yau Tsim Mong or on the Hong Kong Island, even in Tai Po, the locations for my official banner as Legislative Council Member have been occupied by these organizations professing love for the Motherland and Hong Kong, and I have already lodged complaints with the authorities concerned.*

*Figures have shown and everybody knows that this problem has become increasingly serious. An overwhelming number of unauthorized banners have been unlawfully hung, which cause public nuisance and has become an extraordinary view in Hong Kong. However, fewer and fewer banners have been removed year after year; the number reduced from some 6 000 in 2010 to only some 2 000 last year. Is it because the Bureau or department is understaffed or ineffective in enforcement? Do we need to ask the Ombudsman to follow up? Also, in his main reply, the Secretary .....*

**PRESIDENT** (in Cantonese): Mr CHAN, please state a supplementary question.

**MR CHAN CHI-CHUEN** (in Cantonese): *Can I withdraw the question I just asked?*

**PRESIDENT** (in Cantonese): Have you stated your supplementary question?

**MR CHAN CHI-CHUEN** (in Cantonese): *My supplementary question is: why have the authorities not enforced the law after the Secretary has mentioned in his main reply that those banners are unauthorized? As we all know, speedy removal actions were taken during the election, and even banners guarded had been removed. Has the Bureau changed its strategies? The Secretary has just said that they would remind the persons-in-charge at the scene but he has not mentioned enforcement. Are these double standards?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, when the LandsD implemented the revised Management Scheme in September 2011, the Government stepped up enforcement against publicity materials unlawfully hung on Government land. According to the FEHD's observations, the situation of unauthorized banners being hung has improved after the implementation of the Management Scheme. With the Chief Executive election and the Legislative Council election being held between January and April and between June and September in 2012, relatively fewer non-commercial publicity materials were removed during the non-election periods. If all non-commercial publicity materials related to the elections are counted, the number of non-commercial publicity materials removed in each of the years from 2007 to 2012 ranged between 4 000 to 7 000, and the difference should not be substantial.

**MR STEVEN HO** (in Cantonese): *Members of the public have been disturbed by the unlawful display of banners and exhibits for many years, and the problem has now become very serious. Some people also suspect that the Government is biased and timid in enforcement. Many hope that the Government would give non-discriminatory treatment to publicity materials which have not applied for*

*approval. As regards biased enforcement, I would like to ask the Secretary if the Government has handled some political slogans and publicity materials in a loose or relaxed manner. How will the authorities improve this situation?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, the FEHD staff will immediately remove commercial publicity materials once they have been found. Anybody found putting up these materials at the scene may be prosecuted. The authorities may also consider instituting prosecution if there is sufficient evidence against the persons who would benefit from these publicity materials.

Between 2010 and November 2012, the FEHD removed more than 9 million publicity materials and had taken out over 3 000 prosecutions. In fact, the authorities' enforcement has always been non-discriminatory and unbiased.

**MR WONG YUK-MAN** (in Cantonese): *President, Secretary KO Wing-man is a newcomer and he has just read out the main reply drafted by an Administrative Officer; I believe he has no idea about the actual situation. All candidates in the Legislative Council election had frequently received penalty tickers from the FEHD within a certain period after the election. Actions had been taken quickly and flawlessly. I was fined more than \$10,000 in the last term, and I have been fined a few thousand dollars this term .....*

**PRESIDENT** (in Cantonese): Mr WONG, please state your supplementary question as soon as possible.

**MR WONG YUK-MAN** (in Cantonese): *Secretary, as you have no idea about the situation, I am going to tell you certain facts. President, I will not be so angry if I have not read parts (b) and (c) of the main reply. I am not going to blame the Secretary as I will give him the benefit of doubt. How can the Secretary tell us what he has been told by staff of the FEHD? You have just said, "The FEHD has reminded the persons-in-charge at the scene to take note of the relevant provisions laid down in the Management Scheme and the legislation". Who are the persons-in-charge at the scene? Who are these*

*persons at the scene? Anti-Falun Gong banners are hung throughout the Yau Tsim Mong District and even the whole territory, and all these banners have been unlawfully put up.*

**PRESIDENT** (in Cantonese): Mr WONG, please state your supplementary question.

**MR WONG YUK-MAN** (in Cantonese): *President, there are also problems relating to punctuation mark and grammar in the Chinese version of the main reply: "若有關團體部分橫額的展示方式可能會影響使用有關道路的行人及駕駛者的安全，食環署已轉介警方跟進" (as regards cases where the manner in which the organizations displayed the banners might pose safety concerns to pedestrians and motorists using the road concerned, the FEHD has referred them to the police for follow-up action). The word "若" (if) is used in the first part while the word "已" (has) is used in the second part. The word "若" refers to something that has not yet happened .....*

**PRESIDENT** (in Cantonese): Mr WONG, please state your supplementary question; 11 Members are still waiting for their turn to ask questions.

**MR WONG YUK-MAN** (in Cantonese): *I would like to ask the Secretary if those banners would be removed. There are still many banners which should be immediately removed and fines should be imposed on the persons concerned.*

**PRESIDENT** (in Cantonese): Mr WONG, please sit down if you have already stated your supplementary question.

**MR WONG YUK-MAN** (in Cantonese): *I have already stated my question but Secretary, I am asking you to remove these banners immediately.*

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

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, if it has been confirmed that the banners are hung at unauthorized places, the FEHD staff will remove the banners that they have found. But, if there is someone at the scene, the staff concerned will first remind the person who owns these banners before enforcing the law according to circumstances.

**MR CHAN KAM-LAM** (in Cantonese): *President, in recent years, the situation of commercial or non-commercial banners being put up on the streets has become very serious and the situation has even been worsening, especially in some tourist areas. The purpose of this oral question is to seek the Government's enhancement of prosecution .....*

**PRESIDENT** (in Cantonese): Mr CHAN, please wait a while. Mr WONG Yuk-man, please do not speak loudly in this Chamber.

Mr CHAN, please continue to state your question.

**MR CHAN KAM-LAM** (in Cantonese): *I believe the most important purpose of this oral question is to seek the Government's enhancement of prosecution and strictly enforce the law to remove banners or slogans unlawfully hung on the streets without application. I wish to know if the Bureau would further deploy manpower to take resolute actions to remove all commercial or non-commercial banners hung at all tourist spots and on the streets throughout the territory.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, for such a specific proposal, I trust that we must first evaluate the situation and determine whether there is sufficient manpower at ordinary times or at present before considering whether additional manpower will be particularly deployed.

**MR WONG TING-KWONG** (in Cantonese): *The Secretary has touched upon political and non-political banners when he answered the question. I would like to ask a question about the definition of "political". Mr WONG Yuk-man has just mentioned anti-Falun Gong banners, may I ask the Secretary if Falun Gong is political in nature? The Secretary has also said that it depends on whether the banners are guarded by someone. Does the Secretary mean to say that there is no problem if the banners hung are guarded by some persons around the clock? Otherwise, these banners should be removed by the authorities.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I have not deliberately distinguished between political and non-political banners. I have mainly talked about commercial and non-commercial banners just now. According to our general understanding, some of the commercial banners may belong to Members while some others may belong to non-governmental organizations for some types of publicity based on public needs. We have not distinguished between political and non-political banners.

**MR WONG KWOK-KIN** (in Cantonese): *President, Mr CHAN Chi-chuen has asked a really good question because these publicity banners unlawfully put up in many places in Hong Kong have caused disturbances. Secretary, a few years ago, I saw a large number of publicity banners on Falun Gong at places where tourists gathered. Not just a few banners had been hung, an installation had been set. If the Secretary has the time, he may go to tourist areas, such as the Hung Hom Railway Station and the Star Ferry Pier to take a look. The Secretary has just said that the banners will be removed once they have been found. Why have these banners not been found by the FEHD staff over the past few years? What has covered their eyes?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, on this supplementary question raised by Mr WONG, as I have just mentioned, we will remove banners put up without authorization or banners hung in non-designated areas once they have been found. However, if these banners are guarded by some persons, we will first communicate with them, explain to them and remind them about the relevant provisions before enforcing the law according to circumstances.

**MR IP KWOK-HIM** (in Cantonese): *I really thank Mr CHAN Chi-chuen for asking this oral question because we have always been highly concerned about this problem. The display of non-commercial publicity materials at road junctions or main roads has become a very serious problem. As some Members have just remarked, the publicity materials displayed by members of the Legislative Council and District Councils will be removed by the authorities in a short while, and these members will also be fined. This happens very often and I think that is very unfair and I wonder how the enforcement actions can be taken in a consistent manner. According to the Secretary, if the banners are guarded by someone, the staff concerned may first discuss with that person. When I drive back to the Legislative Council Complex each day, I always see publicity materials hang at certain places near the Central Government Offices but the authorities have not taken any actions. I do not think those places are approved locations.*

*Thus, I would like to ask the Secretary if the law can really be enforced indiscriminately, no matter whether he is dealing with the organizations professing love for Hong Kong as mentioned by Mr CHAN Chi-chuen, or Falun Gong. These publicity materials have caused disturbance and made the public very annoyed. Should the authorities consider the matter from the perspectives of safety and the public?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): *President, I would like to thank Mr IP for his comments. I can affirm and ensure that the law will be enforced indiscriminately and we are duty-bound to strictly enforce the law. Yet, as I have repeatedly stated, if these publicity materials are found in the course of enforcement and they can be removed immediately, we will remove them without delay. But if these banners are guarded by some persons, we have to communicate with these persons, and that is part of our law-enforcement process.*

**MS STARRY LEE** (in Cantonese): *President, acting in accordance with the law and indiscriminately is the core value of Hong Kong. Banners of Falun Gong, people who distribute leaflets and stalls of Falun Gong have occupied the roads for a long time over the years. No application has been filed and no approval has been given. I would like to ask the Secretary to visit the districts and learn*



*more about the situation. The FEHD staff have actually not taken any actions. I can tell the Secretary very definitely, we are told by government officials that these politically sensitive matters should be handled by the police. Nevertheless, due to the political sensitivity of the matter, the police have not handled the situation. In the end, people who abide by the rules, such as Members, have been fined while those politically-related activities can be recklessly conducted. The banners and personnel of the organization concerned can be seen everywhere in the communities over a long period of time. Will the Secretary please discuss with law-enforcement officers after the meeting?*

*I absolutely agree with the Secretary's comment just now that we should act in accordance with the law and indiscriminately. I would like to ask: if what I have just said is true, does that mean the authorities had not indiscriminately enforced the law in the past? Does the Secretary agree that this situation can no longer persist and an expeditious review is needed? The aim is to indiscriminately handle all types of publicity banners as the FEHD will enforce the law indiscriminately if these banners are hung without application and approval.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): I have already noticed the situation that Members have referred to. Some Members have talked about a certain organization while some other Members have talked about another organization. But, I have mentioned the two organizations some time ago. Evidently, we have adopted a non-discriminatory attitude. It would be difficult for me to answer a hypothetical question; yet, we treat all organizations mentioned by Members equally.

**MR ALBERT CHAN** (in Cantonese): *President, Falun Gong may have been magically protected such that the staff concerned cannot see their banners unlawfully hung everywhere on the streets. But, the banners of the organizations professing love for the Motherland and Hong Kong can be seen even by the blind because they are not just one tier high but three tiers high. The Secretary has stated in his main reply that the FEHD has the power to exercise the law, but the fact is that many banners two to three tiers high have been hung for a long time in many areas and busy districts, and have not been handled or removed in the past year. This is the result of dereliction of duty on*

*the part of the staff concerned. I hope the Secretary would not be led astray by his colleagues. He really has no idea about the situation.*

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

**MR ALBERT CHAN** (in Cantonese): *I would like to ask the Secretary if he can clearly specify the number of days required to handle this problem immediately. How can the Secretary lead such an enormous government department if he fails to handle this problem? For such a simple issue, so many Members of this Council have asked questions. Can the Secretary tell us the specific time?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I thank Mr CHAN for his supplementary question. However, I believe I cannot simply specify how many days are required to handle the matter. Members should understand that we are dealing with a dynamic situation where some banners will be taken down after they have been displayed for some time. Members should also understand that these banners will be displayed again not long after the authorities have taken enforcement actions. Hence, we must be alert and show great concern, and we must enforce the law according to the Management Scheme whenever irregularities are found.

**MR ALBERT CHAN** (in Cantonese): *President, I am asking about the existing banners not the new banners.*

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

**MR ALBERT CHAN** (in Cantonese): *President, the banners I hung before were removed many times and I had been fined a few thousand dollars by the authorities.*

**PRESIDENT** (in Cantonese): Please repeat the part of your question that the Secretary has not yet answered.

**MR ALBERT CHAN** (in Cantonese): *Focusing on the remarks just made by a number of Members, I would like to ask the Secretary if he can give us a specific time when all banners which have been unlawfully hung for a long time can be removed.*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I think this is still related to the enforcement process. As I have just mentioned, the banners have violated the regulations under two circumstances: either they have not been approved or they are displayed in non-designated areas. They will be immediately removed once they have been found. Yet, if these banners are attended by some persons, we will definitely have to communicate with them in the course of enforcement, and we will enforce the law according to circumstances.

**PRESIDENT** (in Cantonese): We have spent 23 minutes 45 seconds on this question. Second question.

### **Provision of Convention and Exhibition Facilities**

2. **MR WONG TING-KWONG** (in Cantonese): *President, it has been reported that the Chairman of the Hong Kong Trade Development Council (TDC) indicated last month that the usage of the Atrium Link of the Hong Kong Convention and Exhibition Centre (HKCEC), which has been completed for over two years, has now reached saturation and HKCEC has so far turned down 50 and 150 applications for renting exhibition and convention venues respectively. He also pointed out that as the AsiaWorld-Expo (AWE) is remotely located, most exhibitors and buyers are unwilling to travel long distance between the two exhibition venues. Therefore, it is not feasible for HKCEC to collaborate with AWE to provide exhibition spaces under the "one show, two locations" approach. In this connection, will the Administration inform this Council:*

- (a) *whether it knows the number of applications for renting exhibition and convention venues turned down by the HKCEC due to inadequate venues over the past three years, and the economic loss caused to Hong Kong; whether it has compiled statistics on the number of days in 2012 when the usage of all the major exhibition venues in Hong Kong reached saturation; if it has, of the figures;*
- (b) *given that the authorities have all along indicated that they have been encouraging collaboration among the TDC, the HKCEC and the AWE on exhibition projects, of the specific incentive measures taken by the authorities and the number of exhibitions held under the "one show, two locations" approach over the past three years; given that the TDC Chairman has pointed out that the "one show, two locations" approach is not feasible, of the authorities' measures to practically resolve the collaboration problem between the two exhibition facilities; and*
- (c) *of the authorities' progress in assessing whether it is necessary to expand the convention and exhibition venues in Hong Kong; of the time when specific proposals will be put forward; whether the authorities have assessed how Hong Kong's convention and exhibition industry has been affected by the development plans for the convention and exhibition industry in neighboring countries and regions (including the potential losses suffered by Hong Kong as a result of its failure to increase convention and exhibition venues); if they have, of the details; if not, the reasons for that?*

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

- (a) There are two major convention and exhibition facilities in Hong Kong, namely the HKCEC and the AWE.

According to the Hong Kong Convention and Exhibition Centre (Management) Limited, in the past three years (that is, from 2010 to 2012), they have turned down a total of 44 applications for renting exhibition venues because of a shortage of space at the HKCEC, and

among them only 13 cases were concerned with trade exhibitions. For the same period, the HKCEC has also declined a total of 89 applications for conference venues due to a shortage of space. We do not have sufficient information to assess the relevant economic loss to Hong Kong, but it is worth noting that the targeted dates for most of these applications indeed fell on the peak seasons of the exhibition industry. The AWE, on the other hand, had not rejected any applications owing to a shortage of space in the last three years.

Generally speaking, the supply of exhibition and convention facilities at the HKCEC and the AWE is tight during the purchasing seasons. In 2012, the exhibition facilities of the HKCEC reached saturation on 41 show days, which were mainly during the peak seasons of the exhibition industry. The AWE was almost full for eight days in 2012, including the period during the September Hong Kong Jewellery and Gem Fair as well as the October China Sourcing Fair — Electronics and Components (Autumn Edition).

- (b) The Government has been encouraging the TDC and other exhibition organizers to better utilize the existing exhibition and convention facilities of Hong Kong through the adoption of various approaches, including "one show, two venues".

However, how should the shows be staged and the approaches to be adopted are in fact commercial decisions to be made by exhibition organizers, based on the need of exhibitors and buyers. Successful implementation of the "one show, two venues" approach requires close co-ordination between venue operators and fair organizers. Sufficient time should also be allowed for exhibitors and buyers to adapt to such changes. A good example is the Hong Kong Jewellery and Gem Fair, which has been held concurrently at the HKCEC and the AWE since September 2009. The number of exhibitors increased from 3 061 in 2009 to 3 526 in 2012 (that is, an increase of about 15%), while the number of participants also grew from 39 146 to 51 977 (that is, an increase of about 33%) for the same period. We understand that the operator of the AWE is also discussing ways with the private fair organizer to expand further the fair at the AWE in 2013 and beyond.

The Government will continue to offer assistance as appropriate, for example, in the area of transportation arrangements. With the joint efforts of various parties, a number of transportation facilitation measures have been put in place on days with events at the AWE, which include, *inter alia*, the provision of numerous bus routes connecting to various places at the Hong Kong Island, Kowloon and the New Territories, by the franchised bus operators. Besides, the MTR Corporation Limited also provides concessionary fares on days with events at AWE. In fact, in the previous three years (that is, from 2010 to 2012), the TDC has been operating shuttle bus services, running between the HKCEC and the AWE, during the Electronics and Houseware Fairs held in April and October each year respectively, with a view to boosting the people flow in both venues and facilitating buyers in purchasing goods.

- (c) The Government is closely monitoring and assessing the demand for convention and exhibition facilities in Hong Kong, as well as the development of conventions and exhibitions in our nearby countries and places. At present, the HKCEC and the AWE mainly face a shortage of space during the peak seasons of the exhibition industry. We will continue to liaise with the industry and the operators of the two exhibition venues to enhance the co-operation between the HKCEC and the AWE, and to facilitate a more effective utilization of the overall convention and exhibition facilities in Hong Kong. We will also encourage the exhibition organizers and those planning to organize conferences to hold their events at non-peak seasons, or use other convention and exhibition venues in Hong Kong where possible. In the long run, we will keep on assessing the demand, and implement suitable measures or increase the supply of convention and exhibition facilities according to the need.

**PRESIDENT** (in Cantonese): Honourable Members, after the holiday, our computer system needs some time to adapt to the heavy workload. The computer shows that Members who have pressed the "Request to speak" button are Mrs Regina IP, Mr Ronny TONG, Mr Jeffrey LAM, Ir Dr LO Wai-kwok, Mr YIU Si-wing, Mr CHUNG Kwok-pan, Dr Kenneth CHAN, Dr Elizabeth QUAT, Ms Emily LAU and Mr Andrew LEUNG. If any other Members, whose names

were not read out by me just now, wish to raise supplementary questions, please press the "Request to speak" button again. I will first call upon Mr WONG Ting-kwong to raise his supplementary question.

**MR WONG TING-KWONG** (in Cantonese): *President, in the main reply, the authorities indicated that the AWE was near saturation for only eight days in 2012. I wish to follow up one point. How will the authorities capitalize on the commissioning of the Hong Kong-Zhuhai-Macao Bridge (HZMB) and the various tourist facilities on Lantau Island to help the AWE fully utilize its exhibition halls and boost the usage rate?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I thank Mr WONG Ting-kwong for his supplementary question. According to the information provided by the AWE, in 2012, the total metreage sold was over 20 million sq m, an increase of more than 20% compared to 2011 and the second consecutive year which an increase of more than 20% was recorded. The number of large-scale EXPOtainment events hosted at the venue also increased to some 210 days.

As Mr WONG Ting-kwong has said just now, we have to help the AWE enhance its usage rate and capitalize on the commissioning of the HZMB and the various tourist facilities on Lantau Island. Therefore, the Meetings and Exhibitions Hong Kong Office — that is, the MEHK — established under the Hong Kong Tourism Board (HKTB) will continue to tailor-make promotion of Meetings, Incentive travels, Conventions and Exhibitions (MICE), and capitalize on the opportunities brought by the commissioning of the HZMB and various tourist facilities on Lantau Island to further promote our MICE sector, especially the advantages and features of the AWE, thereby strengthening tourism branding and attracting more MICE events to be held in Hong Kong, especially in the AWE, as well as encouraging more tourists to take part in these events, with a view to continue making Hong Kong a "MICE capital".

**MR JEFFREY LAM** (in Cantonese): *President, to enable Hong Kong to become a trading centre or exhibition and convention centre, it entails the support of both software and hardware. As we can see, the exhibition industry has encountered*

*the problem of insufficient venues in recent years. We notice that while the HKCEC in Wan Chai has excess demand as everyone wants to hold their exhibitions here, not many people are willing to go to the AWE, probably because of its remote location, which is an inherent restraint. Noting that the usage rate of the HKCEC and the AWE differs greatly, I have recently requested the Chief Executive to propose some long-term economic policies in the Policy Address, including the provision of ancillary basic infrastructures such as hardware facilities. It is hoped that convention and exhibition venues can be expeditiously expanded.*

*My question is: It has been recently reported that the Government is considering certain sites for expansion, including the existing three government office buildings, the Wan Chai Pier Bus Terminus and the Wan Chai Sports Ground, but we cannot just listen without taking any action. May I ask the Government when a decision will be made, whether it has encountered any opposition and how it will resolve the longstanding problem of insufficient convention and exhibition facilities?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I thank Mr Jeffrey LAM for his supplementary question. The Government will, as usual, keep an eye on and assess the demand for convention and exhibition facilities in Hong Kong. Our priority task is to enhance the co-operation between the two major venues, thereby facilitating a more effective utilization of the overall convention and exhibition facilities in Hong Kong, as I have mentioned in the main reply.

Mr Jeffrey LAM is right in saying that many exhibitors prefer the HKCEC in Wan Chai due to its superior location. With regard to the use of the AWE, as Mr WONG Ting-kwong has mentioned earlier, the new opportunities presented by the HZMB and the development of Lantau may offer some advantages. In the long run, it is hoped that through our liaison, co-operation between the two venues can be enhanced by adopting, for example, the "one show, two locations" or "two shows, two locations" approach, thereby boosting the usage rate.

On the whole, before making a decision, we must assess relevant factors, such as the overall demand for convention and exhibition facilities and the external economic and trading environment, so as to see if there are adequate



facilities. Of course, during the assessment, we must also take into consideration the external objective environment, the usage of major convention and exhibition venues in Hong Kong, and in particular, the traffic implication of such expansion project, so as to ensure that they meet the general needs of Hong Kong.

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

**MR JEFFREY LAM** (in Cantonese): *President, just now I suggested three sites but the Secretary has not answered if they are being considered by the Government.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the TDC once proposed to carry out the Phase 3 expansion project in areas near the HKCEC, which include the Wan Chai Sports Ground or the three government office buildings in Wan Chai North. The relevant study has commenced. However, as it involves issues such as the usage of the convention and exhibition facilities, sites identified for the expansion project and the possible implication of the events on the vicinity area, careful consideration and serious studies are warranted. At this stage, we have yet to finalize the Phase 3 expansion project of the HKCEC. Once we come up with a concrete proposal, a consultation will be conducted as appropriate.

**MR ANDREW LEUNG** (in Cantonese): *President, with regard to part (c) of the Secretary's main reply, I wonder if the Government is aware that with respect to the size of the convention venues in our neighbouring regions, it is 1 million sq m in Macao and 300 000 sq m in Pazhou of Guangzhou, together with an extension of 100 000 sq m under construction. Shenzhen also has a huge convention venue. Given that small and medium enterprises (SMEs) negotiated most of their businesses in the convention venues, they will therefore be greatly affected if it is so unfortunate that this advantage is seized by other places. After all, convention facilities follow the "winner takes all" rule — winner takes all and loser gets nothing. Has the Government concerned about the needs of SMEs and assessed how the exhibition venues should be expanded? Since the current*

*HKCEC has 80 000 sq m, which is the smallest, may I ask if the Government has any plan to expedite the expansion project? Is it possible to undergo in-situ expansion at the existing AWE or HKCEC? If it continues to assess without taking action, all local SMEs will have no business to do 10 years later. I therefore hope that the Government will directly answer if it will proceed with the expansion project.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I have already answered this question in the main reply. Undoubtedly, we have been very concerned about the development of the MICE industry in our neighbouring regions, and considered that we must continue to work hard to promote Hong Kong's status as Asia's MICE capital. In response to a Member's question earlier, I also mentioned that there was a need to further optimize the convention and exhibition facilities, and in particular, the co-operation between the two venues. As I have mentioned earlier, co-operation can be enhanced through the "one show, two locations" or "two shows, two locations" approach.

Certainly, we are also aware of the convention facilities in the Pearl River Delta (PRD) Region or other areas. Just now, Mr Andrew LEUNG mentioned Macao and Guangzhou. Actually, in Shenzhen, Shanghai and even our neighbour Singapore, the supply of land for the construction of such facilities is much more flexible than Hong Kong. Although competition with the PRD Region has become more intense, there is also great complementarity between us. The "winner takes all" rule, as suggested by Mr Andrew LEUNG, may not apply. In fact, we do have plenty of room for co-operation and the resources can be pooled together for joint promotion, thereby making a larger pie. Co-operation in the development of the MICE industry, for example, may help enrich each other's experience. In view of this, we have maintained close liaison with the Guangdong Provincial Tourism Administration and the Macao Government Tourist Office to jointly promote the development of the MICE industry, which include inviting overseas companies to join efforts to inspect the convention venues and tourist facilities. The HKTb, on the other hand, will continue to work hand-in-hand with the partnering cities to develop multi-destination itineraries, with a view to achieving a win-win situation.

**MR ANDREW LEUNG** (in Cantonese): *President, he has not addressed our concern over the venue for SMEs to solicit business. He said that this is no big deal as people can co-operate, but how can SMEs move around? As they are local SMEs, they should solicit business in Hong Kong and their customers must also come to Hong Kong to negotiate business with them. Nonetheless, the Secretary only cares about the co-operation between convention venues to the neglect of the survival of local SMEs.*

**PRESIDENT** (in Cantonese): Mr LEUNG, the Secretary has answered from a policy perspective. If you want to have a debate on this issue, I am afraid you will have to pursue the matter on another occasion.

**MRS REGINA IP** (in Cantonese): *President, in Hong Kong, there is an opinion that in order to compete with our neighbouring regions, the convention venues are the bigger the better, and preferably in the central business district (CBD), which is easily accessible. However, as evident from the development of the neighbouring regions, convention facilities which are large in size and spacious are mostly far away from the old CBD. This is attributable to the development layout aiming to develop new areas and avoid overcrowding in the CBD, such as Wan Chai North. As a matter of fact, as a result of the relocation of the new Central Government Offices and the frequent demonstrations at the Legislative Council Complex, traffic in Wan Chai North has become more congested. May I ask the Secretary: To dovetail with new concepts such as "bridgehead economy" proposed by the Chief Executive and in view of the fact that many neighbouring regions have followed the economic layout to develop new areas, will the authorities consider carrying out the expansion project in Tung Chung, where the AWE situates, and enhancing the relevant transportation arrangements to enable more frequent use of the new facility by SMEs?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I thank Mrs IP for her supplementary question. In response to Mr WONG Ting-kwong's question, I have already mentioned that each convention and exhibition venue has its own edge and some exhibitors prefer Wan Chai for its close proximity to the town centre. Nonetheless, I have also said that upon completion of the HZMB, for example, coupled with the development of facilities on Lantau Island, some exhibitors or buyers may prefer the venue to be as near to

the airport as possible, which is certainly an advantage. In view of this, our assessment of the convention and exhibition venues will take into consideration various factors, including the advantages of different venues and the buyers' needs. A decision will be made in the light of the actual situation and in consideration of a basket of factors, after which the public will be consulted on the proposed expansion of the convention venues.

**MR RONNY TONG** (in Cantonese): *President, in the main reply, the Secretary also admitted that the AWE lacks competitiveness due to the inherent restraint of inadequate facilities, whereas the biggest problem lies in the transportation arrangement. President, my question for the Secretary is: Given that various economic organizations in Lantau Island have demanded for years to turn the SkyPier into a formal boundary control point, which will not only promote the economy of Lantau Island, but will also greatly enhance the competitiveness of the AWE, so may I ask the Secretary the difficulties that have been encountered in this regard? Is the Government considering to turning the SkyPier into a formal boundary control point so as to help the AWE enhance its competitiveness?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, with regard to the transportation arrangement for the AWE, as Mr Ronny TONG has said, it does not only concern with marine transport. Looking back, different transportation arrangements have actually been made by the AWE. At present, during the days when no exhibition or event is held at the AWE, there are railways and six franchised bus routes ("E" route and "S1" route) connecting the AWE and different parts of Hong Kong Island, Kowloon and the New Territories. On event days, in addition to "S1" route, there will be extra bus service and point-to-point franchised bus route ("X1" route) connecting the AWE and the Tung Chung Station bus terminus. Furthermore, on days with events at the AWE, there will also be 10 Airport franchised bus route ("A" route) via the AWE on their airport bound journeys to cope with the transport needs. We therefore hold that measures have been put in place to support the AWE. Of course, on days with events at the AWE, MTR tickets are also available at a discounted rate of \$52, that is, \$26 per trip. I therefore consider it pretty convenient for members of the public to travel to the AWE. Yet, we are open-minded to the future development of other facilities.

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

**MR RONNY TONG** (in Cantonese): *The Secretary has not answered my question about the SkyPier. This is not a transport issue of local Hong Kong people .....*

**PRESIDENT** (in Cantonese): Please let the Secretary reply.

**MR RONNY TONG** (in Cantonese): *..... Rather, it is concerned with granting permission to Mainland businessmen to take part in Hong Kong's exhibitions .....*

**PRESIDENT** (in Cantonese): Mr TONG, you need not explain and let the Secretary reply.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I thank Mr Ronny TONG. As I have said earlier, we will take into consideration a basket of factors. Although the commissioning of the HZMB will certainly offer a desirable advantage, we must also inspect the actual situation before deciding on the relevant ancillary facilities.

**PRESIDENT** (in Cantonese): We have spent nearly 24 minutes on this question. Nonetheless, as we have been bogged down by the system failure earlier, I will allow one more Member to raise supplementary question.

**MR YIU SI-WING** (in Cantonese): *President, according to the Secretary's main reply, the HKCEC has turned down a total of 44 applications for renting exhibition venues and 89 applications for conference venues over the past three years. In view of the shortage of venues, has the Government assisted venue*

*applicants of international conventions and exhibitions to continue to organize events in Hong Kong?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I thank Mr YIU Si-wing for his supplementary question. Exhibition industry has all along been a very important industry in Hong Kong, and the Government has therefore attached great importance to the promotion of the MICE industry. In fact, upon receipt of additional funding from the Government, the TDC has established the MEHK in late 2008, which is dedicated to promote the MICE industry and provides one-stop support for the MICE events. Records showed that since the establishment of the MEHK, it has provided support to more than 5 800 MICE events, and among which 2 300 have been secured through the proactive lobbying efforts of the MEHK. In 2012, the MEHK provided support to more than 1 800 MICE events. Amongst them, 900 were secured through the proactive lobbying efforts of or facilitated by the MEHK. Thus, the MEHK will continue to assist local organizers of international meetings by helping them to identify appropriate venues and provide one-stop support by all means, including site inspection, promotion, itinerary planning, as well as consultation and referral services for various support and logistical needs. Of course, whether or not an organizer will hold international meetings in Hong Kong, or when and where they will be held, is subject to the stakeholders' consideration of their own needs. And yet, the MEHK will provide assistance by all means. As evident from many previous cases, under the co-ordination of the MEHK, the problem of lack of space had been resolved by transferring some of these international meetings or exhibitions to other venues in Hong Kong.

**PRESIDENT** (in Cantonese): Third question.

### **Assistance for Persons Affected by Trawl Ban**

3. **MR STEVEN HO** (in Cantonese): *The subsidiary legislation which bans trawling activities in Hong Kong waters (the legislation on trawl ban) came into operation on 31 December 2012. In this connection, the Government has introduced a one-off assistance scheme for the affected fishermen, including*

*making ex-gratia payments and providing loans through the Fisheries Development Loan Fund (FDLF) to them. However, quite a number of people have pointed out that the assistance scheme cannot provide concrete assistance to those affected. Moreover, although some affected owners of trawler vessels wish to apply for loans so as to switch to fishing in the Mainland waters, the Mainland authorities have long ago implemented "double control" policies for the floating fishing vessels of Hong Kong and Macao, which impose restrictions on the number of such vessels and their engine power. In addition, some practitioners of related trades have told me that their trades are also affected by the legislation on trawl ban. For instance, the fish farming industry can no longer obtain the supply of trash fish from trawler vessels as quality feed for mariculture, whilst fish collectors and ice-maker vessels have lost their businesses on delivering fish for trawler vessels and supplying ice to them respectively. In this connection, will the Government inform this Council:*

- (a) of the latest progress of the Government's disbursement of ex-gratia payments to the owners of the approximately 1 100 trawler vessels affected by the legislation on trawl ban; the criteria adopted by the Fishermen Claims Appeal Board (FCAB) for handling appeals relating to applications for ex-gratia payments; whether the Government has explained comprehensively to the fishermen the criteria adopted by the inter-departmental working group for vetting their applications and those adopted by the FCAB for handling their appeals; if so, of the details; if not, the reasons for that;*
- (b) of the current progress of the discussions between the Government and the relevant Mainland authorities about trawlers operating in the Mainland waters; and the policies and means employed to help resolve the problems concerned; if such policies or means are not available, of the reasons for that; and*
- (c) whether the Government has any concrete assistance measures to help practitioners of the related trades to maintain their livelihood; if it has, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, in order to restore our damaged seabed and the depleted marine resources as early as

possible and put the further development of our marine ecosystems and fisheries industry on a sustainable footing, the Government proposed and the Legislative Council enacted in May 2011 the relevant subsidiary legislation that clears the way for us to implement a trawl ban in Hong Kong waters (the trawl ban) with effect from 31 December 2012. The Finance Committee of the Legislative Council also approved, in June 2011, funds for an one-off assistance package to trawler vessel owners, local deckhands and fish collector owners affected by the trawl ban and other related measures. As part of the package, the disbursement of ex gratia allowance (EGA) to affected trawler owners for loss of fishing grounds as a result of the trawl ban is nearing completion.

In carving up the EGA payable to different groups of claimants, we work to ensure that the allowance paid would be proportional to the impact of the trawl ban on them. The Finance Committee has approved the payment of two types of EGA which are based on the following guiding principles and to be processed as such:

- (1) For inshore trawlers which operate wholly or partly in Hong Kong waters, their owners will be most affected when the statutory trawl ban takes effect as they will lose their fishing grounds in Hong Kong waters. The EGA payable to individual inshore trawler owners will depend on the number of successful applications as well as other apportionment criteria (such as vessel type, vessel length, engine power, equipment on board, the time spent on trawling in Hong Kong waters and/or the amount of production); and
- (2) Apart from the most affected inshore trawlers, there are also larger trawlers which generally do not operate in Hong Kong waters. This group of trawlers may lose the opportunity of trawling the fishing grounds in Hong Kong water on their return journeys. Relatively speaking, the impact of the trawl ban on these larger trawlers is far less than that facing the inshore trawlers. Having taken into account the need to maintain relativity with inshore trawlers which will be affected most, the Finance Committee approved that a lump sum EGA of \$150,000 should be paid to each larger trawler, if the relevant application is successful.



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

- (a) Upon its establishment in August 2011, the inter-departmental working group (IWG) started forthwith its work relating to the applications for EGA. Guided by the Finance Committee Paper pertaining to the assistance package, the IWG mapped out the eligibility criteria and other relevant requirements that EGA applicants have to meet. These criteria and requirements had been clearly set out in the Guidance Notes for Registration that were distributed to applicants. The IWG went about processing each application, in accordance with the established procedures, on the basis of the information furnished by the applicant and other data relating to the application, including details of vessel inspection on the date of registration and information obtained from other departments/organizations.

After making its initial decisions, the IWG wrote to each individual applicant, stating clearly the information and relevant justifications that the IWG had taken into consideration. Should the applicants have any objection to the initial decisions, they may submit further justifications or representations. The IWG made its final decisions after considering the further justifications furnished by the applicants, if any. At present, the IWG has largely completed its assessment of the applications for EGA. The IWG has informed eligible applicants of the results and the amount of EGA payable to them. Some eligible applicants have already received the EGA.

Should an applicant be aggrieved by the formal decision of the IWG, the applicant may lodge an appeal with the FCAB within one month. The Government set up an FCAB on 5 November 2012 for processing the appeals. The Annex gives its terms of reference. The FCAB is made up of a non-official chairman and four non-official members. Its tenure of office will last until work on all the appeal cases has been completed. The secretariat of the FCAB is attached to the Food and Health Bureau.

- (b) The policy of the Mainland Government to control the growth in the number and total engine power of capture vessels operating in

Mainland waters (the "double control policy") has been in place for some years. The policy applies to Mainland-based fishing vessels as well as "mobile fishing vessels" in Hong Kong/Macao. The Agriculture, Fisheries and Conservation Department (AFCD) has been liaising closely with the Mainland Government. We have conveyed to them the concerns expressed by Hong Kong fishermen about the policy, and made arrangements for representatives of relevant Mainland authorities to meet with local fishermen in Hong Kong and brief them on the related policy requirements. AFCD paid a visit to the Hong Kong and Macao Floating Fishermen's Business Office of Guangdong Province with our fishermen representatives on 12 December 2012 for an exchange of views with Mainland authorities on matters related to mobile fishing vessels.

At present, most Hong Kong trawlers have already obtained capture permits issued by the Mainland Government to operate in Mainland waters from time to time. AFCD is given to understand that the Mainland allows owners of mobile fishing vessels holding valid capture permits to upgrade their vessels as long as there is no increase to the engine power of the vessels. As such, trawler owners affected by the trawl ban in Hong Kong waters may upgrade their vessels to suit the requirements for operating in Mainland waters outside Hong Kong. They may also consider forming a fishing fleet or switching to non-trawling operations should they wish to pursue fishery activities of a sustainable nature in Mainland waters. Trawler owners may apply for loans under the FDLF for financing uses such as upgrading their vessels to meet requirements for operating outside Hong Kong waters.

- (c) We believe that the trawl ban would not have significant impact on related trades. It is because ancillary services would still be required by the remaining fishing vessels, including those operating outside Hong Kong and local non-trawling vessels. Following implementation of the trawl ban, some trawlers that used to operate mainly in Hong Kong waters may also operate in the nearby waters outside Hong Kong. They will continue to require the service of the related trades.

At present, the majority of fish collectors receive fish from fishing vessels operating in Mainland waters. The IWG will assess if any *bona fide* fish collectors have genuinely been affected by the trawl ban after its implementation. Depending on the result of its assessment, the IWG will consider providing appropriate assistance to those fish collectors that are directly affected by the trawl ban.

As we understand it, there is at present only one vessel in Tuen Mun that engages in making ice. AFCD has already contacted the owner of the ice maker to understand his situation. The owner has asked the Government to provide assistance for him to move the operation ashore. We will continue to keep in view the impact of the trawl ban on his operation and explore appropriate support measures accordingly.

Upon implementation of the trawl ban, the supply of trash fish (fish in small size) may be reduced. However, we believe that the impact on fish farming would not be significant. AFCD will continue to promote the use of pellet feed to replace the trash fish that is traditionally used as feed for aquaculture.

Apart from implementing the trawl ban and a series of fisheries management measures such as registration of local fishing vessels and prohibiting non-local fishing vessels from fishing in Hong Kong waters, the Government will continue to explore other practicable measures to promote the sustainable development of the fisheries industry.

Annex

#### Terms of Reference of the Fishermen Claims Appeal Board

To process appeals regarding applications for an ex-gratia allowance (EGA) and a one-off grant filed by trawler owners and local deckhands affected by the trawl ban, the Government set up a Fishermen Claims Appeal Board (FCAB) on 5 November 2012. The Terms of Reference of the FCAB are:

- To see that the criteria established by the inter-departmental working group (IWG) for processing and/or vetting applications for the EGA comply with the government policy, and are fair and reasonable (in the public law sense) to the applicants.
- To see that the IWG's decisions on eligibility and the amount of EGA granted comply with the government policy and are fair and reasonable (in the public law sense) to the applicants.
- To examine any new or additional information/evidence provided by the appellants (or their representatives) who have lodged an appeal against the IWG's decisions or by the relevant departments, and to consider the relevance of and the weight to be given to such information/evidence.
- To consider whether to uphold the IWG's decisions on the appellants' cases or to revise the decisions, and to determine the type and amount of EGA payable to the appellants, as appropriate.

**MR STEVEN HO** (in Cantonese): *In fact, the authorities have conducted many consultations with the fishermen, but after listening to the latter's views, they seldom draw up the relevant policies, as well as the critical time frames from the users' perspective. I am now going to illustrate this point with three sets of time frames, so as to bring out the crux of my supplementary question.*

*First, while the fishermen submitted their applications for registration as persons affected by the trawl ban in February, they had been waiting anxiously for nine months before they received the first letter from the authorities in mid-November, informing them that they were classified as "completely unqualified", "partially qualified" or "qualified" affected persons, yet the amount of compensation was still not mentioned in the letter.*

*The fishermen are most concerned about the actual amount of compensation they can get so that they can make their future plans accordingly. However, they were only informed by the authorities of the actual compensation amount respectively before Christmas, that is, sometime around mid-December or even late-December. Hence, the affected fishermen felt that as the Government had only given them a reply a few days before the trawl ban came*

*into operation on 31 December, how could they make their future plans? That is also why the Government's on-going plans to assist the conversion of fishermen have been unsuccessful. That is the first point.*

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

**MR STEVEN HO** (in Cantonese): *In the letter, the Government had also cited the several criteria just mentioned by the Secretary to explain why some applicants were unqualified .....*

**PRESIDENT** (in Cantonese): Mr HO, please ask your supplementary question expeditiously.

**MR STEVEN HO** (in Cantonese): *..... yet no relevant data or statistics had been released, for example, inspection records of the Government, records of fish catch in 2009-2010, and so on. Under the circumstances, there is no way the fishermen can determine whether the Government's policies have been executed fairly, and they consider the entire process lacks transparency.*

*My supplementary question is, as reflected by many fishermen, the amount of EGA granted to individual fishermen vary or even double in some cases, even though they engaged in fishing operations in the same waters with the same method. However, the explanation given by the authorities regarding their classification only sets out the names of various criteria just mentioned, without providing any detailed figures. In other words, it could even be an item list published by the National Aeronautics and Space Administration of the United States. As the Government has not provided a clear explanation to the fishermen on why different amounts of EGA have been granted, I would like to ask whether the authorities can give us a more detailed and comprehensive explanation on the apportionment method? If they can, what are the details; if not, what are the reasons?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Thanks to Mr HO for the question. As Mr HO has just said, I also understand that insofar as the time frame is concerned, the authorities have actually taken a relatively long time before the relevant notification can be issued to the affected vessel owners, and I also consider the situation unsatisfactory. Nonetheless, I hope Members can understand that the entire assessment exercise indeed covers a very large number of vessels. According to the data provided by the AFCD, among the successful applications, 269 vessels are inshore trawlers and over 700 vessels are larger trawlers; only 90-odd applications are unsuccessful, and a small number of applications (about 40-odd cases) are still being processed.

Hence, there are as many as 1 117 applications in total, and the IWG is required to consider very detailed information when processing each application, including, *inter alia*, the dependency of the concerned vessel on Hong Kong waters, which is no easy task at all. As Members are aware, the IWG will not go on board the relevant vessel to inspect its operation on a daily basis. Hence, it can only ascertain the time spent by the vessel on trawling in Hong Kong waters annually on the basis of other data and evidence. Moreover, the IWG must collate and consolidate all sorts of information such as vessel type, vessel length, engine power and equipment on board, as well as data collected by the relevant government departments in routine inspections, before assessment can be made on one single application.

Therefore, while I am aware that the time spent on the process is relatively long, I hope Members can understand the situation. On this account, we are also concerned that some affected vessel owners may feel dissatisfied, and take the view that the amount of compensation they get is different from other owners whose operations are similarly affected. In this connection, we have specifically set up an FCAB to process these cases. I believe that it is practically impossible for the authorities to conduct a seamless and exhaustive assessment on each and every vessel, but we should trust the system. Under this mechanism, the applications will first be considered by the IWG according to the many criteria I have just mentioned, which are already quite comprehensive. Secondly, as there are concerns that the process may still give rise to certain feeling of unfairness, we have specifically set up an FCAB which is made up of all non-official members, including representatives from the legal profession as well as other relevant professions. We hope that with this system in place, it can ensure that the compensation or assistance provided to vessel owners can fairly reflect their needs.

**MR TAM YIU-CHUNG** (in Cantonese): *President, some fishermen have complained that the amount of compensation granted to individual vessels adopting the same fishing method varies, and even to quite a large amount in some cases, that is, more than doubled as mentioned by Mr Steven HO. Moreover, in the present case, the fishermen are facing the prospect that they can no longer engage in fishing operations in the future; hence, they are gravely concerned about the matter. Although the IWG has held many meetings with the vessel owners, the fishermen remain concerned about the accuracy of the inspection records considered by the IWG, for example, as mentioned by the Government, the inspection records of the AFCD in Hong Kong waters as well as various major typhoon shelters between 2009 to 2011. Besides, there is the recent incident concerning inaccurate survey statistics returned by census officers of the Census and Statistics Department. As such, is it possible that the amount of due compensation granted to the fishermen is affected by inaccurate surveys conducted by the staff? What is the Government's consideration in this regard?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Thanks to Mr TAM for the question. I believe that there should be no question of accuracy of records in this matter; instead, the concern of the fishermen or vessel owners is whether the relevant records can fully reflect the actual situation because these records are quite random in the sense that we do not necessarily meet the same vessel on each inspection, and its activities can be highly individualized for the owner can choose to operate at any place and time. That, I believe, is what their concerns are.

Hence, like what I have just said, and this is also a point I hope Members would take note of, the IWG does not simply make reference to such records when processing the applications. I notice that many vessel owners have claimed that our decision is solely based on such records and that is not true. We will make reference to a lot of information before reaching a decision. For example, in respect of vessel types which I am not too familiar with, there are about five to seven types of vessels on a rough count, not to mention the need to take into account the length of different types of vessels as well as their suitability for operation in different waters. All these data are readily identifiable by professionals. Likewise, the number of equipment on board is another factor for consideration, and the use of different types of trawl nets can also indicate their differences.

Hence, this assistance scheme already covers a fairly comprehensive range of aspects, yet many vessel owners have lodged their complaints solely on the basis of the inspection records, which I think might be caused by some misunderstanding. They are under the mistaken view that the authorities' decisions are primarily based on the inspection records, but in fact there are other factors to be considered before the relevant decisions are finally made.

**MS STARRY LEE** (in Cantonese): *President, in fact, it is not difficult to understand the feelings of the fishermen. They are only informed of the actual amount of EGA days before the implementation of trawl ban by year-end, and coupled with the fact that they can no longer engage in trawling operations now, and the amount of compensation granted has yet to be finalized, they are facing a livelihood crisis. As such, I would like to ask the Secretary whether he can give an undertaking here that in view of the exceptional and complicated situation, the authorities will adopt a lenient approach regarding the payment and calculation of EGA, as well as the processing of appeals, so that the fishermen can receive a reasonable amount of EGA expeditiously and plan for their future? In addition, will the authorities set up a task force to assist the conversion of fishermen in future?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Regarding Ms LEE's suggestion in the first part of her supplementary question, instead of discussing whether a lenient approach should be adopted, I would rather highlight the fact that this assistance scheme has been formulated after discussion by the Finance Committee, and its major spirit is not to achieve an even distribution of all support resources as far as possible, but to underpin a fairly stringent principle of reflecting the impact of the trawl ban on the affected fishermen accurately, and disbursing the EGA thereto proportionally. Nonetheless, we totally agree with Ms LEE's second suggestion. As a matter of fact, regarding the present compensation initiative, apart from the mechanism of the IWG and the FCAB, we will also introduce other special measures and arrangements to assist and support the affected fishing industry as a whole, so as to ensure its sustainable development. This is because the industry is not only affected by the ban on inshore trawling, but also by many other on-going construction works in the harbour. This is something we are aware of.



**MR CHAN HAN-PAN** (in Cantonese): *President, as just mentioned by the Secretary, the fishermen can only receive the information provided by the authorities at the very last moment or in the last few days. It shows that the IWG works hastily and hence, I suggest that the authorities should consider extending the IWG's tenure of office. But that is not what my supplementary question is about. My question is, given the professional aspects of fishing operations, when the Government refers the applications to the FCAB for consideration in the future, it would be very important for the FCAB to possess the necessary professional knowledge in order to make a judgment. Operation-wise, the FCAB would often rely on the papers provided by the Government in making the judgment, and preconceptions are unavoidable in some cases .....*

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

**MR CHAN HAN-PAN** (in Cantonese): *That is why I would like to ask the Government how it can avoid such preconceptions and ensure that members of the FCAB possesses the necessary professional knowledge to make judgments that are convincing to the fishermen?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): Thanks to Mr CHAN for the question. As I mentioned just now, the FCAB comprises all non-official members, including a chairman and four other members, and that bespeaks our emphasis on ensuring the fairness of the organizational structure, as well as precluding preconceptions. However, regarding the other question raised by Mr CHAN on professional expertise, difficulties are indeed involved because I think it would be highly difficult to identify independent persons with a legal background who also possess professional knowledge about fishing or the fishery industry to sit on the appeal board.

Hence, I believe that, in line with the practice of many other similar mechanisms which are obliged to ensure fairness in law, our major priority is to ensure the independency of its members, as well as their adherence to procedural justice. Then, we can provide members with other support in terms of

professional expertise, for example, by identifying experts in the relevant professional aspects as required to assist their consideration.

**PRESIDENT** (in Cantonese): As the Secretary has spent over 17 minutes to give his replies to Mr Steven HO's main question and supplementary question just now, I would allow this oral question to continue for a little longer so that other Members can ask their supplementary questions.

**MR SIN CHUNG-KAI** (in Cantonese): *President, originally, I also thought that I might not have the chance to ask question. I would like to enquire about some statistics which have not been mentioned previously. Regarding larger trawlers, the Secretary has indicated that a lump sum EGA of \$150,000 would be paid to each larger trawler if the relevant application is successful. Then, how many larger trawlers have received a lump sum EGA of \$150,000 to date? Separately, regarding inshore trawlers, how many vessel owners have already accepted the compensation, and how many cases of appeal are on-going?*

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, with regard to Mr SIN Chung-kai's supplementary question, I may have to provide part of the information after the meeting. But in respect of appeal cases, as at 8 January 2013, we have received a total of 240 appeals. As to other statistics requested, I might have to provide them to Members later. (Appendix I)

**MR SIN CHUNG-KAI** (in Cantonese): *President, can the Secretary briefly explain the major reasons of appeal?*

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

**SECRETARY FOR FOOD AND HEALTH** (in Cantonese): President, I believe the reason must be dissatisfaction with the amount of compensation. Nonetheless, I would like to add that as I have just mentioned, this compensation mechanism was approved by the Finance Committee after discussion, and its

principle is to reflect the impact of the trawl ban on the affected fishermen as accurately as possible, rather than achieving the most even allocation of the compensation funds. Hence, the IWG will seriously determine the impact of the trawl ban on individual vessel owners, and then accurately reflect the same in the amount of compensation granted.

**PRESIDENT** (in Cantonese): This oral question can only end here. Fourth question.

### **Shortage of Construction Workers**

4. **IR DR LO WAI-KWOK** (in Cantonese): *President, some members of the construction industry have pointed out that while the implementation of major infrastructure projects by the Government at present provides sustained impetus for the construction industry and the economy of Hong Kong, the construction industry is currently facing problems such as ageing workforce, labour shortage, skills mismatch and succession gap. As shown by the findings of a survey, construction sites with works in progress at present have an average labour shortage of 15%, posing challenges to the progress of works and safety of construction sites. Regarding the shortage of construction workers, will the Government inform this Council:*

- (a) *whether it has reviewed the effectiveness of the Enhanced Construction Manpower Training Scheme (ECMTS) introduced in September 2010; if it has, of the details; whether it will consider extending the training period of the Scheme and expanding the trades under the Scheme to cover welders, plasterers, glaziers, marble workers, painters and decorators, as well as plumbers; if it will, of the details; if not, the reasons for that;*
- (b) *whether the authorities will consider outsourcing some training courses to trade unions and certification bodies to increase the training quota and recruit new blood to join the construction industry; and*

- (c) *as some members of the industry have estimated that the demand for construction workers will peak in the middle of this year, of the authorities' new proactive measures to expeditiously address the difficulties caused by the shortage of construction workers?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): Good morning, President and Members.

President, we have maintained close liaison with the Construction Industry Council (CIC) and the construction industry, as well as conducted manpower surveys and studies and organized workshops to keep track of the latest manpower situation.

With major infrastructure projects coming on stream, there will be an increase in manpower demand in the construction industry. Employment statistics show that there is still room for training more local workers to meet the demand. As early as May 2010, we obtained the approval of the Legislative Council for a funding of \$100 million to strengthen the support for CIC to implement various initiatives, including the ECMTS, to enhance the skill levels of local workers. The Development Bureau comprehensively reviewed the manpower situation of the construction industry in June 2011. The findings revealed that in the next few years, although total manpower supply will be adequate, individual trades will face issues of labour shortage and acute ageing. In this connection, in April 2012, we sought an additional funding of \$220 million from Legislative Council to strengthen the relevant training initiatives.

My reply to Ir Dr LO's question is set out as below:

- (a) ECMTS targets at training personnel for individual trades in great demand, in particular those facing issues of labour shortage, acute ageing and difficulties in recruiting new entrants.

Statistics show that ECMTS needs to train up approximately 6 000 new entrants to meet the manpower demand in the next few years. Since rolling out ECMTS in September 2010, CIC has already completed four phases, training over 2 000 trainees. Amongst

them, about 60% were aged below 35, indicating that ECMTS was effective in attracting more young people to join the construction industry. To ensure better employment opportunities for the trainees, since the end of December 2012, we have required relevant public works contractors to employ graduate trainees of ECMTS. I am confident that CIC will meet its target by end 2014, while The Development Bureau will continue to monitor the effectiveness of ECMTS.

Prior to launching new phases of ECMTS, CIC consults the construction industry stakeholders and takes into account the findings of manpower studies, the situation of trainee intake and placement of graduates of various trades. The number of trades under ECMTS has progressively increased from four in the first phase to 10 at present. Further, CIC adjusts the training periods of individual trades taking into account actual industry needs and the feedbacks from trade associations. As this mechanism has been functioning well, we encourage contractors to timely reflect the manpower demands of various trades to CIC.

As regards parts (b) and (c) of Ir Mr LO's main question, my answer is as follows:

To meet long-term manpower demand, we, in collaboration with CIC, have drawn up a total manpower strategy for construction workers, which covers four key areas.

First and foremost is forecasting manpower demand and supply. The percentage of labour shortage quoted by Ir Dr LO is likely based on the questionnaire survey conducted by the Hong Kong Construction Association and the Hong Kong Federation of Electrical and Mechanical Contractors in November 2012. Since 1976, the Census and Statistics Department (C&SD) has released employment statistics on construction sites on a quarterly basis. The statistics for the third quarter of 2012 show that the percentage of vacancies of manual workers at construction sites is only about 1%. We will co-ordinate with trade associations, labour unions, CIC and C&SD to conduct similar manpower surveys in a collaborative manner. On the other hand, CIC will consult the construction industry on a half-yearly basis to gauge the medium and short-term manpower

supply and demand. I hope the industry will actively reflect their views to CIC. Further, CIC will be commissioning a consultant to assess the manpower supply and demand in the industry over a 10-year horizon. The findings of this consultancy study will provide recognized information as reference for CIC and us to formulate relevant policies.

The second key area is to increase manpower supply. CIC has rolled out various initiatives to attract secondary school graduates, job-changers, ethnic minorities and new migrants to join the industry. We have also collaborated with CIC to launch the "Build Up" publicity campaign to uplift the image of the industry. Our survey revealed that the number of young people who are likely to join the construction industry has nearly doubled as compared with the time before the launching of the campaign. In the past two years, the number of registered construction workers has also increased by some 15%. These factors indicate the success of our publicity drive. To complement our work, CIC has been striving to increase the number of training places. With the assistance of The Development Bureau, CIC has identified additional training grounds to increase the annual training places under ECMTS from about 1 200 to about 2 300 within this year.

Ir Dr LO asked if we would outsource training courses. As a matter of fact, to keep the number of training places abreast of market demands, there are outsourcing arrangements for training courses. Under the Contractor Cooperative Training Scheme (CCTS) led by CIC, certain training courses are subsidized by CIC, whereas contractors hire and then train the trainees. Since December 2011, we have required relevant public works contractors to join CCTS and have also encouraged other public bodies to take part in it. CCTS will provide some 1 500 training places this year. Taking into account the above initiatives and regular courses of CIC, the overall training places of CIC will increase from about 2 000 in 2009 to about 6 000 this year. This reflects that CIC has substantially raised its training quota to meet the needs of the industry.

Regarding in-service workers, it is an established policy of CIC to encourage general workers to enhance their skills and register as skilled or semi-skilled workers. Apart from organizing skills enhancement courses for trades with relatively low passing rate of trade tests, CIC is planning to co-operate with qualified organizations with a view to contracting out five skills enhancement courses in early 2013. CIC will also examine the feasibility of

outsourcing other courses. Further, CIC will provide subsidies for workers to attend trade tests or specified training courses.

The third key area is to increase productivity of public works projects by enhancing the procurement strategy and formulating relevant guidelines.

The fourth and the last is to make use of CIC's "JobsNet" recruitment platform launched in 2011 and the Construction Industry Resource Centre commissioned in 2012 to match manpower demand and supply.

Looking ahead, we will collaborate with CIC, construction industry stakeholders and construction workers to nurture a multi-skilled workforce.

**IR DR LO WAI-KWOK** (in Cantonese): *President, I would like to raise a supplementary question. After completing the ECMTS, trainees who have joined the industry still need on-the-job training provided by the employers. Will the authorities consider the views of the industry to provide subsidy to contractors to provide the required on-the-job training for trainees who have completed the relevant courses, so as to enhance the new entrants' skill and standard of industrial safety?*

*Another supplementary question I would like to ask is whether the Secretary .....*

**PRESIDENT** (in Cantonese): You can only ask one supplementary question.

**IR DR LO WAI-KWOK** (in Cantonese): *Alright, I will follow up later.*

**PRESIDENT** (in Cantonese): If you have another supplementary question, you can wait for your turn to ask again.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, after workers have completed a training course, left the training centre and start working, they

can still receive subsidies. We have maintained close contacts with the industry, if individual industry stakeholders request for an extension of the training period so that workers can still receive subsidies while they familiarize themselves with the work in the construction site and enhance their skills, we will actively consider the request. For example, in respect of bar bending work, we have agreed to extend the training period from 97 days to six months. If there is a need in other trades, we will actively consider their applications so long as there are justifications and supporting data.

**DR PRISCILLA LEUNG** (in Cantonese): *President, both my grandfather and my father had been engaged in the construction industry and they especially understand the hardship and pressure faced by workers of the "three trades", that is, carpentry, plastering and painting. Why is it that the construction industry, especially the work in construction sites, cannot attract young people? Apart from an increase in pay which many people have been striving for, more importantly, young people have a negative impression of the construction industry, thinking that workers engaged in the industry have no prospect and they are rude and rough. Hence, they are not attracted to join the industry. Nowadays, young people are most concerned about a sense of satisfaction and respect from others.*

*Therefore, I would like to ask the Government — I have mentioned before in some Committee meetings — since you have allocated a lot of funding to provide training for these workers to uplift their social status, such as giving them the title "urban beauticians", just like the beautician industry which has gained wider recognition as a professional industry. The Government can give construction workers a professional title which gives them a sense of satisfaction so as to attract more people to join this industry. Therefore, will the Government respond as to how it can improve the image of this industry to command more respect from members of the public?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): *President, we have maintained close liaison with the stakeholders of the industry and the CIC, and as I have said just now, we have launched the "Build Up" publicity campaign in an attempt to give the public a correct understanding of the construction industry and construction workers through various channels, such as education and publicity.*



In fact, there has been a substantial increase in the number of young people joining this industry over a certain period in the past. Apart from uplifting their image, we also provide training for them to enhance their skills, help them become semi-skilled or even skilled workers so as to improve their employability, increase their income, as well as improve the working conditions at the construction sites so that they can work in a safer and cleaner environment. All these are the objectives that we are striving to achieve.

As a matter of fact, the safety of the construction industry has also been substantially improved. In the past decade, accidents at construction sites have reduced 40% and we will continue our endeavours to uplift the image of the construction industry.

**MR CHUNG KWOK-PAN** (in Cantonese): *President, Hong Kong is virtually in a stage of full employment, but the construction industry still suffers from shortage of labour, thereby pushing up the wages in the industry. At present, as the daily pay for some types of work amounts to \$1,000 or \$2,000, workers from other industries are attracted to join the construction industry, leading to an acute shortage of labour in other industries. During the 1990s when the Chak Lap Kok Airport was under construction, the Government imported foreign workers for some of the major government infrastructural projects. I would like to ask the Government whether it will consider doing the same in order to alleviate the current labour shortage problem in Hong Kong?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, presently we do not have such a plan. Why? President, at the moment, the unemployment rate of the construction industry is about 4.4% and the underemployment rate is about 7.1%, whereas during the construction of the Chak Lap Kok Airport, the unemployment rate was just 2%. This means that we still have room to provide more training for construction workers in Hong Kong to improve their employability.

On the other hand, we also think that the rolling forward of the present infrastructural development and the economic upturn can benefit the construction workers and bring about a suitable pay rise.

As regards the employment opportunities of individual work types, local workers are always given the priority. If there is a demand of workers for individual work types or if foreign workers have to be imported for certain types of work, the contractors concerned can recruit foreign workers under the Supplementary Labour Scheme of the Labour Department. Last year, 200 workers were imported via this Scheme and they are all engaged in special work types which cannot be taken up by local workers. However, when we granted permission for the importation of workers for special work types, we also required the contractors to provide training to local workers, so as to ensure that local workers have sufficient employment opportunities.

**MR JEFFREY LAM** (in Cantonese): *President, there is a 15% labour shortage in the construction industry at present and more major infrastructural projects will be coming on stream in the next few years. The Government has also pointed out recently that more lands will be allocated for housing development. With the concurrent commencement of all these projects, more workers will be needed, including management staff, construction supervisors and construction workers. If there are insufficient workers, I am afraid that the progress of the Government's housing projects and works projects will be hindered. What I am most worried about is the construction quality. If we do not have sufficient skilled workers and works supervisors, and there are quality problems with the buildings constructed, the property buyers will suffer .....*

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

**MR JEFFREY LAM** (in Cantonese): *..... I would like to ask the Government, although the Secretary has mentioned that there is a plan to attract talents and there are training programmes for those who wish to join the industry, it takes time to get the result. I have also pointed out earlier .....*

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

**MR JEFFREY LAM** (in Cantonese): ..... *the issue of labour importation but the Secretary has just said that there is no such plan for the time being. I think you should have a little foresight as the problem has already emerged. When there is a demand for more workers, the shortage may be even more acute .....*

**PRESIDENT** (in Cantonese): Mr LAM, you have spent over one minute 30 seconds. Please raise your supplementary question as soon as possible.

**MR JEFFREY LAM** (in Cantonese): ..... *Secretary, can you tell us whether you have discussed with other Policy Bureaux how to solve the problem of labour shortage, including the importation of labour?*

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, as I have said just now, the current unemployment rate in the construction industry is 4.4% and the underemployment rate is 7.1%. In the next few years, the construction industry will still be booming and we are paying close attention to the demand for construction workers in the market.

As I have just said in the main reply, first of all, the CIC will commission a consultant to assess the manpower supply and demand and we will also conduct manpower studies from time to time. For the time being, we believe that since the Labour Department has put in place the Supplementary Labour Scheme, if relevant contractors think that there is a need, they can lodge an application under this Scheme. At present, we have increased our efforts in the provision of training with a view to attracting young people, ethnic minorities and new migrants to join the industry. In our view, by enhancing these training opportunities, more employment opportunities will be provided to local workers. Besides, we should also note that the underemployment rate in this industry is 7.1%, which is quite high. Therefore, another way to deal with this problem is to train up workers with more than one skill. For example, we can teach a steel reinforcement worker how to do "formworks", so that he can have more work to do in a month and to a certain extent, this can also alleviate the keen demand for skilled workers in the industry. Therefore, we must tackle this problem with a multi-pronged approach while giving priority to providing job opportunities to local workers.

**MR JEFFREY LAM** (in Cantonese): *President, I hope the Secretary can have the foresight. If we are truly short of labour, has he discussed with other Policy Bureaux about the importation of workers?*

**PRESIDENT** (in Cantonese): Mr LAM, you have spent a lot of time on asking your supplementary question and the Secretary has given his answer on the government policy. Please follow up through other channels.

**MR KWOK WAI-KEUNG** (in Cantonese): *President, first I would like to thank the Secretary for not blindly believing and quoting the figures provided by the Hong Kong Construction Association concerning the acute shortage of workers in the industry. Instead, we strongly support the categorical refusal of the Secretary for Development to import foreign workers at the present stage. Besides, there are sufficient data to prove that we have ample room to provide training for local talents to meet the future employment demand. Moreover, under the ECMTS, 2 000 workers have been trained in the past two years and the number of trainees will increase to 2 000 a year in the future.*

*My supplementary question is, as most of the training courses presently offered by the CIC are full-time courses, and construction workers would not give up their wages from the day-time job to attend these courses, can these courses be converted from a full-time basis to a part-time basis and can arrangement be made to have classes held during the holidays or in the evenings, so that construction workers can attend to enhance their competitiveness?*

**PRESIDENT** (in Cantonese): Not only to train construction workers, Members also have to learn to be "categorical". Secretary, please reply.

**SECRETARY FOR DEVELOPMENT** (in Cantonese): President, different courses have different considerations. For some courses such as those on basic skills for new entrants, of course trainees have to attend a full-time programme. There also some schemes such as the CCTS that I mentioned just now, under which the contractors will hire the workers first and then train them so that the trainees can start working at the construction site after receiving a short training

at the training centre. As for other courses, such as the ones aim at preparing trainees for trade tests, I believe that there is more room for adjustments.

After hearing Members' views, we will consider what suitable adjustments can be made.

**PRESIDENT** (in Cantonese): This Council has spent more time on this question than it has been allocated. Fifth question.

### **Parking Spaces for Coaches**

5. **MR YIU SI-WING** (in Cantonese): *President, some members of the tourism industry have indicated that as the Government resumed three coach parking sites within the Kai Tak Development area (KTDA) in September 2012, which involved nearly 1 000 large coach parking spaces and 2 000 medium coach parking spaces, the number of parking spaces for coaches in the urban areas has decreased substantially. As such, some drivers are forced to park their coaches in car parks in remote areas in the New Territories (NT), which has led to increased fuel expenditure. The parking and retrieval of coaches in NT by drivers are very time-consuming and also take up their rest time, and may even cause traffic accidents as coach drivers are tired. In this connection, will the Government inform this Council:*

- (a) *of the number of large coaches in Hong Kong, the respective numbers of large coach parking spaces for night-time, daily and monthly rental in the urban areas, and whether it knows the average rents of daily and monthly parking spaces and the average rent increases per year, in the past three years;*
- (b) *of the expected rate of change in the number of coach parking spaces in the urban areas in the coming three years; if such number will decrease, of the remedial measures to be taken by the Government; whether the authorities have drawn up any long-term planning for coach parking spaces; if they have, of the details; if not, the reasons for that; and*

- (c) *with the commissioning of the first berth of the Kai Tak Cruise Terminal in the middle of this year, thousands of tourists will disembark there at the same time in future, whether the authorities will provide sufficient large coach parking spaces at the terminal; whether these are temporary parking spaces; if so, whether they will be converted into long-term parking spaces?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese):

President, the Government monitors and regularly reviews the supply and demand of coach parking spaces in various districts of Hong Kong and will take appropriate measures when necessary to meet demand. Coach is a type of non-franchised bus and it can use all parking spaces designated for non-franchised buses. If there is relatively high demand for parking spaces in individual districts, we will implement the following basket of measures to increase the number of parking spaces:

- providing on-street parking spaces without compromising road safety and affecting other road users;
- allocating land not planned for immediate development for use as temporary car parks;
- if the demand for parking spaces designated for non-franchised buses is particularly high for a certain district (such as popular tourist spots), we will consider designating some existing temporary car parks for the exclusive use of non-franchised buses when renewing the tenancy of the car parks; and
- requiring an appropriate number of parking spaces designated for non-franchised buses to be included in new developments where appropriate. For example, the Ocean Park has recently provided 100 parking spaces designated for non-franchised buses for coach parking in its extension works; space for 30 parking spaces designated for non-franchised buses has been reserved in the redevelopment project of the former North Point Estate (NPE) to meet the long-term demand of the district.

Due to the need to provide sufficient works areas for the Shatin to Central Link project, the tenancy of three temporary car parks in the KTDA had to be terminated in the period between September and November 2012, and the area of two other temporary car parks in the KTDA area had to be reduced. As a result, the number of parking spaces designated for non-franchised buses in these five temporary car parks located east of the Olympic Avenue decreased by 475 from 680 to 205. In response, the Government reserved two sites, which are in close proximity to the existing temporary car parks, measuring 40 000 sq ft as temporary car parks. Opened in October 2012, these two new car parks provide 342 parking spaces designated for non-franchised buses. The Transport Department (TD) estimates that the 547 parking spaces designated for non-franchised buses currently provided by the four temporary car parks in the KTDA, together with the spare parking spaces designated for non-franchised buses in the neighbouring areas of Kowloon City and Kowloon Bay could generally meet the parking demand of the affected non-franchised buses (including coaches).

My reply to the various parts of Mr YIU Si-wing's question is as follows:

- (a) In the past three years, the total number of non-franchised buses in Hong Kong (including coaches, school buses and residents' services buses, and so on) remained at about 6 700.

Currently, the number of parking spaces designated for non-franchised buses is about 5 300, including some 1 000 on-street parking spaces, some 1 600 parking spaces in various temporary car parks located in the Eastern District of the Hong Kong Island, Kowloon City, Wong Tai Sin, Kwun Tong, Sai Kung and Kwai Tsing, and some 2 700 parking spaces at residential, commercial, school and other government sites. Although the number of non-franchised buses parking spaces is smaller than the number of non-franchised buses, some non-franchised buses would be parked at non-designated parking spaces in housing estates, schools and commercial buildings (such as hotels). If there is a clear shortage of parking spaces designated for non-franchised buses in individual districts, the Government will increase the number of such parking spaces through the abovementioned short-term or long-term measures to meet the demand as far as possible.

The total number of parking spaces designated for coaches in urban areas is about 2 900. The TD does not have a breakdown of the number of parking spaces by rental pattern.

According to the TD's survey conducted in 2010 on charges for parking spaces designated for non-franchised buses in temporary car parks, in general, the hourly parking fee was about \$5 to \$20, daily parking fee (excluding night-time) about \$20 to \$100, night-time parking fee about \$30 to \$100, and monthly parking fee about \$2,000 to \$3,000. The TD has not conducted similar surveys in the past two years and therefore does not have statistics on the increase of parking fee.

- (b) The number of parking spaces designated for non-franchised buses in the urban areas is affected by various factors. One of the more important factors is the termination of temporary car parks that provide parking spaces designated for non-franchised buses by the Lands Department (LD) for major infrastructure projects or permanent land development. We will continue to monitor the supply of parking spaces designated for non-franchised buses in various districts of Hong Kong and, when necessary, will take measures to increase supply.
- (c) The operator of the Kai Tak Cruise Terminal is responsible for the operation and management of the ground transportation area (including all driveways and parking spaces) within the Terminal. There are a total of 40 pick-up and drop-off spaces and 30 queuing spaces for use by coaches transporting passengers to and from the Terminal. Such spaces are permanent facilities within the Terminal. According to the assessment of the project consultant, assuming that each coach has a capacity of 45, the 40 pick-up and drop-off spaces would be able to handle 1 800 passengers simultaneously. When a cruise vessel berths at the Terminal, the cruise operator will typically make arrangements for its passengers to disembark in groups. Moreover, to ensure that cruise passengers will disembark in an orderly manner, the terminal operator will, together with the cruise operator and tour operator, work out in advance the necessary arrangements according to the passenger



volume and berthing duration. Therefore, the number of such spaces should be adequate to meet the operational need of the largest cruise liners.

**MR YIU SI-WING** (in Cantonese): *President, tourism has been flourishing in Hong Kong in recent years, with a double-digit growth year-on-year. However, from the figures provided by the Government, we find that coach parking spaces in urban areas are far from sufficient. What is more, many of these parking spaces are temporary in nature.*

*My question for the Secretary is: Given that the Government is now actively resuming the Home Ownership Scheme (HOS) and increasing the production of public rental housing (PRH), will the authorities take any measures to increase the number of coach parking spaces in a well-planned manner when they makes plans for the relevant sites (including the West Kowloon Cultural District site)?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, in the White Paper on Transport Policy in Hong Kong published in 1990, the Government set out a policy which has, since then been followed by the authorities, that is, encourage private developers to provide public parking spaces in their developments to meet the parking demand. After the Government has stopped building multi-storey car parks, drivers often have to make use of temporary car parks and on-street parking spaces. Yet, as stated in my main reply, according to our assessment, the parking demand of non-franchised buses is generally met. While there are more non-franchised buses than parking spaces, some of these buses are parked at non-designated parking spaces.

Regarding the supplementary question just raised by Mr YIU, the TD has monitored the usage of parking spaces in various districts. According to our observation, while some districts may have vacant parking spaces, the supply of parking spaces is tense at some popular tourist spots. We will take appropriate measures to deal with the planning issue and the parking problem in different districts seriously.

**MR FRANKIE YICK** (in Cantonese): *President, the Secretary has just stated that the authorities only conducted two parking demand studies in the past two decades. It has been more than 10 years from now since the last study, which started in 2000 and completed in 2002. Over this period, our economy has experienced continuous development, with an increasing population and a surging number of tourists. Meanwhile, the number of vehicles is also on the rise. The problem of insufficient parking spaces has become more serious, which not only affects coaches, but also other non-franchised buses, such as school buses, trucks and container trucks. I have received some complaints on this issue. As a result, drivers have to park the vehicles in the suburbs, or they may park their vehicles on the streets, with the risk of being prosecuted. According to the Secretary's main reply, apart from the 100 parking spaces in the Ocean Park and the 30 parking spaces on the former NPE site, other parking spaces are for temporary use.*

*In the main reply, the Secretary has also stated that some temporary car parks were vacated for the Shatin to Central Link project to be carried out in Kowloon East. As the Kowloon East development will soon commence and will proceed for some time, all the existing parking spaces in Kowloon East, that is, the KTDA, will have to be removed. By then, where should people park their vehicles? My supplementary question is: Will the Government conduct a new parking demand study and formulate a long-term plan for the provision of parking spaces based on the study results? If it will, when will this study be conducted and what are the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): *President, as the last territory-wide study on parking demand was conducted 10 years ago, I agree that it is time for the relevant government departments to carry out another study of this kind. However, among different types of vehicles, non-franchised buses are indeed relatively stable in number, while private cars and private light buses have increased substantially. Yet, all in all, the demand for parking spaces has posed a big challenge to the Government. Over the years, we have often relied on temporary car parks to meet the demand. Nevertheless, as mentioned by the Member just now, there are various upcoming construction projects as we strive to optimize the use of our limited land resources to build infrastructures, housing and other facilities. We should therefore conduct a more comprehensive study to explore how the parking demand can be met. Yet,*

according to our assessment, the current situation is not that bad because, in some districts, there are still vacant parking spaces in temporary car parks, though parking is really a big problem at some popular tourist spots.

**MR JAMES TIEN** (in Cantonese): *President, regarding Mr YIU's question, the Tourism Board renders its full support. In the main reply, the Government has stated that there are three big car parks in Kai Tak, providing 1 000 parking spaces. Yet, in my view, these car parks can only be used for overnight parking of coaches. During daytime, there is a serious lack of parking spaces for coaches in tourist spots in the urban areas. President, I think you may know that the tourists ..... bearing in mind that the number of Mainland tourists has reached 38 million this year ..... when tourists get on/off the coach for sight-seeing or meals, conflicts may arise between tourists and members of the public. This is highly unfavourable to our economic development. Apart from large car parks, the biggest problem right now is that after tourists have got off the coach for sightseeing, there is a serious shortage of temporary parking spaces or passing places for coaches. I would like to ask the Secretary: While there is a serious shortage of land, will the Government, in providing land for the construction of PRH units, HOS flats and office buildings, allocate some spaces on the roadside for coach parking, so as to ease the above problem?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I agree with Mr TIEN that land should be used to cater for different needs and tourism is very important to the development of Hong Kong's economy. In both my main reply and supplementary replies, I have said that parking spaces are not in short supply or may even be left vacant in some districts; yet, in some other districts, the supply of parking spaces is really tense. However, the problem does not concern overnight parking but the picking up and dropping off of tourists at popular tourist spots during daytime. My colleagues have recently conducted on-site observation at places crowded with tourists and noticed the tense situation. Therefore, we consider it necessary to provide additional parking spaces at these places and I will follow up this issue.

With the co-ordination and efforts of various government departments, we have added nine on-street parking spaces for non-franchised buses in Tsim Sha Tsui over the past two years. Of course, I know that the number of additional

parking spaces may not be able to keep up with the increase in the number of tourist, but we are working with the Tourism Commission to ensure that parking spaces and other relevant facilities are available for non-franchised buses in the newly-completed tourism developments.

**MR CHAN KAM-LAM** (in Cantonese): *President, in tourist districts, spaces for coaches to pick up and drop off tourists are far from enough. Places like Tsim Sha Tsui and Wan Chai are often crowded with coaches, and very often tourists have to wait for a long time before they can get on/off the coaches. Because of the lack of parking spaces at night, many quiet streets are now parked with lots of coaches, which is highly undesirable. With the commissioning of the Kai Tak Cruise Terminal in the middle of this year, it is expected that many streets in Kwun Tong district will possibly be occupied by or parked with coaches, hence causing traffic congestion. I would like to ask the Secretary: In view of the shortage of pick-up and drop-off spaces, will the Government make any preparation to provide more land for the provision of pick-up and drop-off spaces or parking spaces?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): *President, as the Kai Tak Cruise Terminal will commission in the middle of this year, we have already done a lot of preparation work, including providing pick-up and drop-off spaces and queuing spaces as mentioned in the main reply. On feeder transport, there will be green minibus routes. As stated by Mr CHAN Kam-lam just now — perhaps, he is more concerned about this point — since there will be quite a lot of tourists in that area, it may be difficult for coaches to pick up and drop off tourists or park on the roadside. We will keep a close eye on the actual situation after the commissioning of the Cruise Terminal. In respect of the transportation network in the neighbourhood, we have already introduced a number of traffic management facilities to ensure smooth traffic. However, if there are later too many tourists crowded at certain places, causing some other problems, we will certainly introduce further measures to deal with them.*

**MR NG LEUNG-SING** (in Cantonese): *Regarding part (b) of the main reply, I would like to ask the Government: When the LD resumed car parking sites for*

*major infrastructure projects in the past, did it communicate with the relevant parties or conduct consultation before removing the temporary car parks on those sites? Is it necessary to communicate or consult with the tourism sector in similar land resumption exercises in the future?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, the tenancies of temporary car parking sites are usually for shorter terms; therefore, a six-month notice is sufficient for their termination. However, the TD and other relevant departments want to receive an early notice about whether these short-term tenancy sites will soon be resumed for other development purposes. This will allow us to make an earlier arrangement for the temporary car parks or parking spaces affected. Recently, we have strengthened our co-ordination in this aspect.

**PRESIDENT** (in Cantonese): Last question seeking an oral reply.

### **Building "Brand Hong Kong" and Promoting Development of Hong Kong Industries**

6. **MR CHUNG KWOK-PAN** (in Cantonese): *In reply to my question raised in this Council earlier, the Chief Executive promised to examine how to build a good Hong Kong brand. In addition, he has promised in his election manifesto that "[w]e will support Hong Kong manufacturers in restructuring their business model to tap the domestic market on the Mainland, especially in areas such as garments, toys, jewellery, electronics, watches and clocks, where our manufacturers have traditionally excelled in terms of branding, design, product research and development, market research, sales, marketing and exhibitions. We will strive to set up permanent exhibition venues in major Mainland cities to display Hong Kong made products". In this connection, will the Government inform this Council:*

- (a) *whether the Government has any initial ideas for helping local small and medium enterprises (especially those from the manufacturing industry) in building "Brand Hong Kong"; if it has, of the details and when it will put forward specific plans; if not, the reasons for that;*

- (b) *whether the Government will complementarily promote the development of Hong Kong industries while building "Brand Hong Kong", including the implementation of measures to encourage exchange and collaboration between Hong Kong manufacturers and overseas enterprises in tapping business opportunities; if it will, of the specific measures and the industries in which such measures will first be implemented; if not, the reasons for that; whether the authorities will allocate additional resources to assist Hong Kong manufacturers in developing the domestic market on the Mainland, taking the opportunities of the preferential policies under the Mainland and Hong Kong Closer Economic Partnership Arrangement, and through the quality products under "Brand Hong Kong", as well as to assist Hong Kong manufacturers in developing overseas markets; if they will, of the details; if not, the reasons for that; and*
- (c) *given that, in recent years, quite a number of manufacturers in the clothing industry intend to relocate their factories on the Mainland or in Southeast Asia back to Hong Kong, of the policies that the authorities have put in place to help such manufacturers moving back to Hong Kong and to strengthen the brand prestige of good quality of "Made in Hong Kong" products; of the policies for encouraging Hong Kong manufacturers to develop new materials for clothing and new technology for production (for example, encouraging manufacturers to collaborate with universities and scientific research institutions, and so on) so as to build and develop "Brand Hong Kong"?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, my consolidated reply to the Member's main question is as follows:

To help the enterprises enhance their competitiveness and expand their business, the Government has implemented various measures to assist different industries, including those industries which have traditionally excelled like garments, toys, jewellery, electronics, watches and clocks and so on, in developing brands, upgrading and restructuring their operations, exploring sales

channels, and enhancing product research and development, and has also been providing the latest market information to them.

On funding support, to assist Hong Kong enterprises in capturing the opportunities arising from the policies of expanding domestic demand and encouraging upgrading and restructuring in the National 12th Five-Year Plan, we launched a dedicated fund of \$1 billion at the end of June 2012 to provide funding support for individual enterprises and non-profit-distributing organizations to assist the enterprises in developing brands, upgrading and restructuring operations, and promoting domestic sales in the Mainland, so as to enhance their competitiveness and further their business development in the Mainland. The response of the trade to the dedicated fund has been overwhelming. Under the Enterprise Support Programme, 297 applications<sup>(1)</sup> received under the first two batches had been processed, of which 31 applications were approved with an average funding amount of \$368,000. Another 71 applications were approved with conditions. Under the Organization Support Programme, 37 applications received under the first two batches had been processed, of which 17 applications were approved with an average funding amount of around \$3.57 million. We are now processing the third batch of applications, including 222 applications submitted by enterprises and 17 applications submitted by organizations.

The SME Development Fund (SDF) administered by the Trade and Industry Department (TID) also provides funding support to trade and industrial organizations and so on to implement projects which help SMEs develop and promote their brands so as to tap into the Mainland and overseas markets. In the past three years, over \$14 million of funding has been granted under the SDF to support a number of projects relating to the development and promotion of brands. In addition, the SME Export Marketing Fund (EMF) operated by the TID supports individual SMEs to participate in export promotion activities, with a cumulative funding support for each SME at \$150,000. About \$2.27 billion of funding has been granted under the EMF, benefiting over 36 000 enterprises. The Hong Kong Export Credit Insurance Corporation (ECIC) also implements various measures to support Hong Kong exporters, in particular SMEs, to engage in export trade and explore export markets. These include providing special premium discounts for export to emerging markets under specified conditions.

(1) Including 67 applications subsequently withdrawn by enterprises.

On the other hand, the Special Administrative Region Government and other relevant organizations also organize a wide range of activities to promote Hong Kong brands. For example, the Hong Kong Trade Development Council (HKTDC) organizes exhibitions and short-term promotional activities in the Mainland and overseas markets to promote Hong Kong brands, and provides business matching services, and so on, in order to support and encourage Hong Kong enterprises to exchange and co-operate with Mainland and overseas enterprises, to test the markets and expand their business network. These activities include the Lifestyle Expos organized in emerging markets and the Style Hong Kong Shows held in major cities in the Mainland, and so on. The HKTDC also set up a Design Gallery in Beijing and Guangzhou to provide a long-term sales platform for Hong Kong brands so as to test the market and build up brand awareness. As e-commerce has been increasingly popular, the HKTDC has also set up a Design Gallery website on Taobao's Tmall, helping Hong Kong brands explore the vast opportunities in Mainland's online shopping market. In addition, our offices in the Mainland collaborate with trade associations and other organizations to organize "Hong Kong Week" promotional events in the Mainland in 2012 and 2013, in order to promote Hong Kong products and services, with a view to assisting Hong Kong enterprises in building up their brand image and exploring the domestic market.

Apart from funding support and promotional activities, we also provide enterprises with various information and services to enhance their ability in developing brands and exploring sales channels. For example, the TID has been co-organizing a high-level conference on brand development with the HKTDC, and providing useful information on branding through its website. Moreover, the "HKTDC Research" electronic information platform also provides different types of market information, including analysis of consumers' needs and preferences, in order to assist Hong Kong enterprises in understanding the latest situation of the Mainland and overseas markets.

Regarding technology and research development of the textiles and clothing industry, there are various programmes under the Innovation and Technology Fund (ITF) to support and encourage Hong Kong enterprises to conduct research and development (R&D) work, in order to enhance the competitiveness of their products. These include the Small Entrepreneur Research Assistance Programme and the University-Industry Collaboration Programme, and so on. To further encourage private companies to conduct R&D work, the Government launched the \$200 million R&D Cash Rebate



Scheme in April 2010. To enhance the effectiveness of the Scheme, we have increased the level of cash rebate by threefold, from 10% to 30%, with effect from 1 February 2012. In addition, the Government has set up five R&D Centres since 2006 to promote and co-ordinate partnership between universities and the industry to conduct applied R&D in selected technology areas, which include the Hong Kong Research Institute of Textiles and Apparel (HKRITA). Up to end November 2012, the HKRITA has conducted 80 R&D projects funded by the ITF, with total funding of about \$215 million. With an increasing number of projects completed, the HKRITA has been engaging more actively in the transfer of its R&D results to the industry and commercialization of the R&D outcomes in recent years.

Mr CHUNG also mentioned the relocation of factories of the clothing industry back to Hong Kong. In fact, this issue does not only involve a single industry, but concerns the long-term development of industries of Hong Kong. In this regard, the Chief Executive has already stated clearly in his policy platform that we would draw up an overall industrial policy. On this, the Economic Development Commission (EDC) to be established under the Chief Executive's direction will look into the support policies and measures required by industries that could foster Hong Kong's further economic development. The EDC will be led by the Chief Executive. The preparatory work for the establishment of the EDC has commenced and it is envisaged that the EDC will be set up shortly.

**MR CHUNG KWOK-PAN** (in Cantonese): *President, everything said by the Secretary in his main reply just now actually falls under the policy of the Government of the present and last terms. The key point of my main question is that the Chief Executive has promised in the last Question and Answer Session as well as in his election manifesto to support the enhancement of "Brand Hong Kong" in various aspects. Thus my question is: What new measures will the current-term Government adopt in this regard? I am not asking about the existing policy or that of the last Government.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I thank Mr CHUNG for his question. Actually the Government's long-standing policy is to support industries, including those mentioned by Mr CHUNG in his main question, at different levels. The

supporting measures, covering market development and opening up new markets, seek to help the industries to secure bigger market access through co-operation among trade associations and the work of various organizations, such as the HKTDC and the Hong Kong Productivity Council.

Apart from marketing, the Government has set up different financing schemes to help the business sector to meet financing needs. Even with regard to the loan guarantee risk upon the sale of commodities, the Government has launched a series of measures at different times in response to different needs. In respect of design, the Government will assist the industries in R&D and design so that they can move forward to develop high value-added services or products.

Of course, as we know, CEPA facilitates us to work closely with the Mainland and enables us to tap numerous business opportunities, allowing different industries to make a head start in entering the Mainland market to pursue development. In short, we will introduce the necessary measures one after another at different times in response to different circumstances. The dedicated fund launched by us in June 2012 seeks to dovetail with our country's new policy in the hope that Hong Kong can seize the vast business opportunities in the Mainland domestic market. Our complementary measures have been welcomed by traders since the implementation of the policy. The Government will communicate with the business sector from time to time in response to different needs and introduce supporting measures to meet such needs.

**MR MICHAEL TIEN** (in Cantonese): *Before I joined the Legislative Council, I had already expected what the Government's written reply to these questions would be. It has been the same over the decades. How can these three factors, namely, finance, promotion and information, push forward the industries, Secretary? To push forward the industries, a complementary policy is necessary. The development of "Brand Hong Kong" involves two essential items. One is intellectual property. The other one is sustainable supply of technical talents. President, speaking of intellectual property, actually many Hong Kong people had set up their own brands, yet unexpectedly, the concepts of their brands were all registered by other people on the Mainland, and when they went to the Mainland to develop their own brands, they were sued for infringement. Such incidents have been heard from time and time. As for sustainable supply of technical talents, with a great number of degree courses currently available for designers in Hong Kong, there is no shortage of talents.*

*However, after a garment has been designed and its pattern has been drawn, we need someone who knows how to set the required specifications, that means the size. This requires the relevant technical talent who has high added value. President, there is also the need for a pattern maker to produce the paper pattern in accordance with the size. This is another type of technical talent. However, since .....*

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

**MR MICHAEL TIEN** (in Cantonese): ..... *all right. Since the polytechnics were converted to universities, this type of technical talent has entirely disappeared in Hong Kong. May I ask the Secretary, what kind of support are you going to offer to help those creators of "Brand Hong Kong" to face various problems such as infringement on intellectual property rights on the Mainland? Are you going to talk to our country whether its trademark policy complies with the Paris Convention, unlike the present situation where the first person who makes the registration will have an exclusive right forever regardless of whether he will use it or not? Another .....*

**PRESIDENT** (in Cantonese): Mr TIEN, you may raise one question only. If you have another supplementary question, please wait for your turn to raise it again.

**MR MICHAEL TIEN** (in Cantonese): *Yes, I forget about that, sorry. In that case, let me put my supplementary question on this point, as this point is very important as well.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I thank Mr Michael TIEN for his supplementary question. Just now I heard Mr Michael TIEN say that the universities in Hong Kong have failed to nurture the technical talents required. I absolutely disagree. The tertiary institutions in Hong Kong are of very high standards, and they provide a large pool of talents to the business sector in response to its academic and market

needs, thus enabling them to develop their potential. So I do not agree that we are short of talents.

Nevertheless, SMEs are certainly facing a lot of difficulties. In this regard, when I answered Mr CHUNG's question earlier, I have cited examples of various kinds of support provided by the Government to enterprises for business operations and start-ups. Of course, there are many other individual examples. For instance, under the TID there is a Support and Consultation Centre for SMEs .....

**PRESIDENT** (in Cantonese): Secretary, Mr TIEN's question is about protection of intellectual property rights on the Mainland. Please answer in this respect.

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, actually Mr Michael TIEN has just raised two questions. One question is about intellectual property while the other one is about manpower training. I would like to answer Mr TIEN's question on manpower training. I wish to point out that apart from universities and tertiary institutions, the business sector, the HKTDC and the TID have also provided training projects and consultation exercises in various aspects which can assist in business start-ups and operations of the industries.

Regarding intellectual property, my view is more positive. As a matter of fact, Hong Kong has maintained a sound system for intellectual property with serious law enforcement. As such, the business sector in Hong Kong has much room for development. This is precisely because Hong Kong treats intellectual property seriously and provides a favourable environment. As for the disputes over intellectual property rights which traders have encountered on the Mainland, I believe Mr TIEN also knows about this matter very well. In this regard, we will liaise with the relevant authorities to jointly fight against infringement.

Like Mr TIEN has said earlier, intellectual property has great room for development in Hong Kong. As Members know, in view of Hong Kong's unique environment with sound ancillary facilities on the financial, professional and other fronts, there are abundant development opportunities for intellectual property in Hong Kong. In areas such as management and trade of intellectual property, there is also ample room for development.

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

**MR MICHAEL TIEN** (in Cantonese): *The Secretary has not answered my question about how to provide specific support for traders being sued for infringement on the Mainland.*

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

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, with regard to individual cases of infringement, of course we can provide support, follow up the matter and relay views to the relevant authorities. However, as restricted by our jurisdiction, we can only deal with cases which took place within Hong Kong's territory. Despite this, we are most willing to act correspondingly and offer assistance for cases that took place outside Hong Kong.

**MR FRANKIE YICK** (in Cantonese): *President, the Secretary has mentioned earlier that at present, Hong Kong traders are provided with assistance in exploring business on the Mainland through the HKTDC and the TID. As I remember, Chief Executive Mr LEUNG Chun-ying stated in his election manifesto that consideration would be given to strengthening the functions of the representative offices of the Government on the Mainland to provide assistance to Hong Kong enterprises to develop businesses on the Mainland. He also indicated that consideration would be given to upgrading these Mainland offices so as to enhance the efforts in promoting the development of Hong Kong industries on the Mainland.*

*In this regard, I would like to ask the Secretary about the present progress, and whether any specific plan or measure has been put in place to help Hong Kong enterprises to further promote their business on the Mainland through this channel.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I thank Mr YICK for his supplementary question. Our Economic and Trade Offices (ETOs) on the Mainland have substantially fought for the traders' interests and tapped business opportunities for them. That includes relaying traders' concerns to the Mainland, reflecting problems to our counterparts, and disseminating the latest information to traders by means of publicity briefings or seminars so that they can grasp the latest information in doing business. Besides, we will hold more discussions and exhibitions with other trade associations to help the business sector to tap more business opportunities. Next, we will certainly take further follow-up action on the ETOs' work and strengthening their functions in response to the needs of the business sector and the actual market situation, so as to dovetail with the development of the market.

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

**MR FRANKIE YICK** (in Cantonese): *I would like to clarify the Secretary's reply. Is he saying that there is no plan yet?*

**PRESIDENT** (in Cantonese): Mr YICK, please repeat the part which you think the Secretary has not answered.

**MR FRANKIE YICK** (in Cantonese): *President, just now I asked the Secretary if there is any specific plan to implement the measure of upgrading the ETOs.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, the Government's policy is to roll out a measure as soon as it is ready. We will communicate with the trade, conduct consultation or make announcement in due course.

**IR DR LO WAI-KWOK** (in Cantonese): *President, to encourage the development of local brands as well as R&D and design of products, may I ask*

*the Secretary for Commerce and Economic Development, apart from the funding schemes mentioned by him earlier, will the authorities consider providing grants for patent applications and design registrations made by local enterprises and individuals? Such an act can indeed help to protect intellectual property rights.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): I hope Members are aware that actually regarding patent applications for intellectual property, measures are currently in place to provide funding support for local inventors to apply for patents. We shall be pleased to consider any other proposals from Members.

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

**IR DR LO WAI-KWOK** (in Cantonese): *Patent applications and design registrations can be made not only by enterprises but also by individuals. I would like to ask if the funding support mentioned by the Secretary just now also covers individuals, since both enterprises and individuals were mentioned in my previous question.*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, to my knowledge, application for the relevant grant can be made by enterprises as well as by individuals. Anyway, I can provide written information after the meeting. (Appendix II)

**MR NG LEUNG-SING** (in Cantonese): *President, may I ask the Secretary, in setting the dedicated fund of \$1 billion in total mentioned by him just now, has any objective been set on the number of brands to be established, and basically to which industries do the products of such brands belong?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, our dedicated fund of \$1 billion does not have any fixed goal about how many brands it must develop, but of course, the more, the better.

Response has been enthusiastic since the introduction of the scheme. Later, we will review its effectiveness and conduct assessment on aspects such as the number of applications, nature of the funded projects and its help to the overall economy in Hong Kong.

This dedicated fund of \$1 billion was introduced to the market in response to the policy of "branding" under the National 12th Five-Year Plan. After its introduction, we consulted the industries and they welcomed the fund. Later, we will conduct another review and make adjustments where necessary.

**DR ELIZABETH QUAT** (in Cantonese): *President, to build up Hong Kong brands, the key lies with how to assist local SMEs. Thus the Government must set a good example and attach importance to the SMEs' room for development. However, I have received complaints from a lot of SMEs which said that when they strived for overseas orders, very often the overseas enterprises or governments would ask whether the Hong Kong Government had used their products or tried their products. If it had not used them, the overseas enterprises or governments would query if there was any problem with their quality. Hence, the existing tender arrangement of the Hong Kong Government actually fails to help SMEs. The Government has always used restriction under the principle of free trade of the World Trade Organization (WTO) as an excuse for its refusal to adopt measures to give preferential treatment to local SMEs. However, as we can see, many overseas governments of advanced economies which have joined the WTO still give preferential treatment to local enterprises. In this connection, has the Government considered drawing reference from relevant experience of foreign countries to figure out how to help to benefit SMEs in Hong Kong during the Government's procurement process on the premise of compliance with the WTO's requirements? When will the Government adopt such measures to assist SMEs in establishing their brands as well as tapping overseas and Mainland markets?*

**SECRETARY FOR COMMERCE AND ECONOMIC DEVELOPMENT** (in Cantonese): President, I thank Dr QUAT for her supplementary question. The Government's procurement policy stresses fairness, open competition, cost effectiveness, transparency and accountability to the public. The services or goods selected by us must satisfy our requirements and stay in line with public interests. These principles for procurement comply with the WTO's agreement



on procurement and are consistent with its spirit and objectives. They mainly seek to foster a level playing field without favouring or discriminating any tenderer. That being said, there is sufficient flexibility in the Government's internal procurement system which allows the Policy Bureaux, where practicable and without violating the said principles for procurement, to attain policy objectives by acting correspondingly in the procurement arrangements.

I have also reminded the respective Policy Bureaux or departments that in formulating such tender specifications, there should not be excessive specifications which will hinder SMEs from participating in the tendering activities. Moreover, so long as it is feasible, they should provide more information on the tender projects, lower or waive the requirements on deposits for tender contracts, or even allow tenderers to substitute bank guarantee for financial vetting. These measures aim at reducing the burden on SMEs so that they can actively participate in the Government's procurement activities.

Just now I noticed that Dr QUAT mentioned the word "tried". If we are talking about using something on trial and not procurement, actually we have tried a lot of technologies before. Where procurement is not involved, if a certain technology can complement the Government's work — for example, the Hospital Authority has tried certain technologies before. In that case, the application of and demand for an invention can be grasped through trial by organizations. After a new product has been used on trial, when it is put up for tenders in other places, say, in overseas places as mentioned by the Member, there will be a track record that it has been used before, thereby equipping it with better competitiveness for tenders. In this regard, the Innovation and Technology Commission plays a very active role.

**DR ELIZABETH QUAT** (in Cantonese): *President, according to the Secretary's response .....*

**PRESIDENT** (in Cantonese): Dr QUAT, since the time spent by this Council on this question has far exceeded the limit, I cannot let you raise any more supplementary questions. Oral questions end here.

**WRITTEN ANSWERS TO QUESTIONS****Regulation of Health Food**

7. **MS STARRY LEE** (in Chinese): *President, it has been reported that as the retail prices of health food products such as vitamins and glucosamine sold in the United States and Canada are only 30% of those in Hong Kong, quite a number of Hong Kong people take the opportunity to make bulk purchase of them when they travel to such places or visit relatives there. Apart from personal consumption, they also give these health food products to their relatives or friends as souvenirs, or even resell them or barter them with other goods on the Internet. Yet, such acts may constitute the offences of possession or sale of unregistered pharmaceutical products under the Pharmacy and Poisons Ordinance (PPO) (Cap. 138), and persons convicted of such offences are liable to a fine of HK\$100,000 and imprisonment for two years. On the other hand, some members of the public have queried that the milk powder of certain brands in the market contains glucosamine and its concentration is not lower than those of health food products, but such milk powder is not subject to the relevant regulation. In this connection, will the Government inform this Council:*

- (a) *of the number of cases in which persons in possession of either of the above two types of health food products were prosecuted under the aforesaid ordinance, the number of persons convicted and the penalties imposed on them, in the past three years, together with a breakdown of persons convicted by the purposes of possessing such health food products (giving to relatives or friends as gifts, delivering to others who asked them to purchase such products on their behalf, or reselling), as well as the average quantity in possession;*
- (b) *whether the authorities will step up publicity efforts, including reminding inbound travellers not to give to others as gifts, deliver to others who asked them to purchase on their behalf, or resell the above types of health food products bought overseas which are unregistered pharmaceutical products in Hong Kong, so as to prevent members of the public from inadvertently breaching the law; if they will, of the details; if not, the reasons for that; and*

- (c) *of the criteria under which the authorities classify products containing glucosamine and in a pharmaceutical dosage form as pharmaceutical products; whether this is the international practice?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, under the PPO (Cap. 138), "pharmaceutical product" and "medicine" mean any substance or mixture of substances manufactured, sold, supplied or offered for sale or supply for use in:

- (i) the diagnosis, treatment, mitigation, alleviation or prevention of disease or any symptom thereof;
- (ii) the diagnosis, treatment, mitigation, alleviation of any abnormal physical or physiological state or any symptom thereof;
- (iii) altering, modifying, correcting or restoring any organic function, in human beings or in animals.

As stipulated under the PPO, pharmaceutical products for sale in Hong Kong must be registered with the Registration Committee under the Pharmacy and Poisons Board, in order to prove that the products have met the requirements of safety, quality and efficacy. Any person who sells, distributes or possesses for the purposes of other use any unregistered pharmaceutical product commits an offence and is liable on conviction to a maximum fine of HK\$100,000 and imprisonment for two years.

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

- (a) In the past three years, there were a total of 23 cases of successful conviction for possession of unregistered vitamins or glucosamine products in contravention of Regulation 36 of the Pharmacy and Poisons Regulations (Cap. 138A). Fines meted out in these cases ranged from \$1,500 to \$15,000.
- (b) The website of the Drug Office under the Department of Health (DH) <[www.drugoffice.gov.hk](http://www.drugoffice.gov.hk)> contains information related to purchase and sale of pharmaceutical products and on matters that the

public should pay attention to when they purchase medicines overseas for self use. We will step up education and publicity in this respect, including distributing educational pamphlets to outbound and inbound travellers as well as publicity on the website of the Travel Health Service under the DH.

- (c) According to scientific literature and records, glucosamine can relieve symptoms of arthritis. Glucosamine products in pharmaceutical dosage form (for example, tablets, capsules, and so on) that are on sale in the market fall within the definition of pharmaceutical product under the PPO and must be registered with the Registration Committee before they can be sold legally in Hong Kong.

While glucosamine is listed as a pharmaceutical product in Hong Kong, products containing glucosamine in pharmaceutical dosage form are also subject to regulation as medicines in many countries, such as Australia, Canada, Italy, Ireland and the United Kingdom, and so on.

### **Continuous Surge of Fresh Beef Price**

8. **MR WONG KWOK-HING** (in Chinese): *President, according to media reports, the agent which imports live cattle from the Mainland raised the wholesale price of fresh beef six times last year, pushing the retail price to new heights time and again. The current retail price of fresh beef has already exceeded \$100 a catty. In addition, the quantity of live cattle imported daily fluctuates greatly. The aforesaid situations have led to a tight supply of fresh beef, the public having to bear expensive beef price, and business difficulties for beef retailers and restaurants. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have taken measures to stabilize the price and supply of fresh beef; if so, of the details; if not, the reasons for that;*

- (b) *given that the authorities have indicated earlier that they would conduct a market survey to gather and compare information on the prices, quality and costs of fresh beef in nearby Mainland cities and Hong Kong, in order to get a better understanding of the reasons for the surge of fresh beef price, when the survey will be completed and the findings published;*
- (c) *given the comments that the import of live cattle through a single agent at present has rendered the supply and wholesale price of fresh beef susceptible to manipulation and retailers lacking bargaining power, which causes a continuous surge of fresh beef price, whether the authorities will consider opening up the market to increase competition, so as to stabilize the supply and price of fresh beef; if they will, of the details; if not, the reasons for that; and*
- (d) *whether the authorities have investigated if there are lawbreakers currently smuggling live cattle into the territory, or even illegally slaughtering some local stray cattle for selling as imported fresh beef; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President, maintaining stable and adequate supply of foodstuffs from diverse sources is the policy objective of the Government, in addition to ensuring food safety.

At present, all the live cattle that are imported into Hong Kong come from the Mainland. Between 2009 and 2011, the supply had been reasonably stable, with the market importing on average 70 to 80 live cattle each day. The supply in the first half of 2012 stayed at around this level. In the second half of 2012, we saw a drop in market demand due to a significant increase in the wholesale price of live cattle. In the month of December 2012, the daily supply of live cattle was 61 on average. According to information available to us, the surge in the price of fresh beef is mainly due to tight supply and a significant increase in demand for live cattle in the Mainland. As we understand it, the present breeding stock of cattle in the whole country is at the lowest level in five years. The fertility rate of cattle and their slow rate of growth are such that cattle farmers, having to come to terms with the long breeding cycle, would not seek to expand their breeding capacity in haste. The resulting tight supply in fresh beef

when taken together with other factors such as the upward movement of transport costs and wages have led to stiff prices. In the past year, the prices of fresh beef in the Mainland and Hong Kong both registered continuous increases. While the rates of increase in the wholesale price of live cattle in both places were broadly comparable, the retail price of fresh beef in the Mainland had gone up by a margin that was even wider than that in Hong Kong.

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

- (a) In light of the surge in the price of fresh beef, we have had meetings with representatives of the trade and other stakeholders in recent months to take stock of market conditions on the ground and issues of concern to the trade, including constructive exchanges with them on the supply and price of live cattle. To better understand the market situation, we will commission a consultant to conduct a market survey covering the prices, quality and costs of fresh beef in Hong Kong and nearby Mainland cities, thereby providing empirical data for informed comparisons as well as an objective basis for the Government to analyse issues related to the market and consider the way forward.
- (b) The preparation work for commissioning the consultant is in progress. We aim to complete the market survey and release the findings in the second quarter of this year.
- (c) There has been a suggestion that the Government should open up the live cattle wholesale market and bring in competition as a means to help spur lower prices.

The Government has an open mind about the merits of this suggestion. That said, we must give careful consideration to the possible long-term implications on the supply and price of live cattle. At present, the surge in the price of live cattle is mainly attributed to tight supply and high demand. As such, an increase in the number of import agent may not necessarily help ameliorate the market realities. On the other hand, our present market is relatively modest in size. Under such circumstances, would an increase in the number of import agent merely serve to weaken their bargaining

power in sourcing live cattle from farmers, thereby reducing the incentives for farmers to maintain stable supply? In the light of tight overall supply, would the competition among agents in the bidding process translate instead into upward pressure on prices? These are questions that we must address. The Government will take them carefully into consideration when examining whether we should open up the live cattle wholesale market.

- (d) The Agriculture, Fisheries and Conservation Department (AFCD) and the Customs and Excise Department have been regularly conducting joint operations at various boundary control points to combat smuggling activities. Up to the present moment, no illegal smuggling of cattle into Hong Kong has been found. The AFCD and the Food and Environmental Hygiene Department have not received complaints about illegal slaughtering of local stray cattle. Nor have they come across reports of missing stray cattle or the carcass of dead cattle being found. In addition, both departments are not aware of any intelligence about the smuggling of cattle or the slaughtering of local stray cattle by unscrupulous merchants for sale as fresh beef imported from the Mainland.

## Occupational Safety and Health

9. **MR KWOK WAI-KEUNG** (in Chinese): *President, some employees have relayed to me that occupational safety and health are very important issues because accidents of occupational injuries and deaths not only affect the employees concerned and their families but also place a burden on the entire society. Yet, accidents of occupational injuries and deaths have happened frequently in recent years and the situation has aroused public concern. In this connection, will the Government inform this Council:*

- (a) *of the number of accidents of occupational injuries and deaths in Hong Kong in each of the past five years, together with a breakdown by industry, job type and type of accidents;*
- (b) *whether, in the past five years, there were accidents of occupational injuries and deaths caused by employers violating the safety*

*requirements under the labour legislation; if so, of the details and types of requirements involved, the respective numbers of persons prosecuted and convicted for such offences, as well as the penalties imposed by the Court on the convicted persons;*

- (c) whether, in the past five years, there were employers prosecuted or convicted for failing to give notices of work injury accidents to the Commissioner for Labour within the statutory periods, or providing false or misleading information in giving the relevant notices; if so, of the number of such cases and the maximum penalties imposed by the Court on the convicted persons;*
- (d) given that some healthcare staff have pointed out that the waiting time for public hospital services is rather long, resulting in quite a number of employees injured at work missing their "golden recovery period" and directly reducing their chances of returning to their original work positions, of the policies and measures put in place by the authorities to ensure that the employees concerned have timely access to rehabilitation care services after sustaining injuries, and to encourage enterprises to conduct assessments on the conditions of employees who are unable to return to their original work positions and to redeploy those employees to other positions;*
- (e) of the latest situation of the authorities drawing up, in the light of the actual circumstances and the uniqueness of various sectors, targeted programmes to enhance employees' awareness of occupational safety and health; and*
- (f) whether the authorities have any plan to comprehensively review the existing Employees' Compensation Ordinance (Cap. 282) (ECO), including examining the contents of its provisions and adjusting upwards the levels of compensation, and so on; if so, of the details; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, the Government attaches great importance to the occupational safety and health of employees, and is concerned about the compensation for employees who have



unfortunately sustained injuries or died at work. The Labour Department (LD) seeks to safeguard the safety and health of the working population through legislation and enforcement, publicity and promotion as well as education and training. We will also review the relevant policies, laws and work practices from time to time to keep abreast of the times, thereby providing appropriate protection for employees' occupational safety and health as well as compensation.

Our reply to the question asked by Mr KWOK Wai-keung is as follows:

- (a) Over the past five years, an annual average of around 40 000 cases of occupational injuries occurred in workplaces, with fatal cases (including natural death cases) accounting for less than 0.5%. Injury cases in which employers violated requirements under the safety legislation were mostly industrial accidents. With regard to these industrial injury and fatal cases, the LD does not have a breakdown by job type. The breakdown by industry is tabulated below:

Industry Section	2008		2009		2010		2011		First Three Quarters of 2012*	
	Number of injured persons	Number of deaths	Number of injured persons	Number of deaths	Number of injured persons	Number of deaths	Number of injured persons	Number of deaths	Number of injured persons	Number of deaths
Construction	3 013	20	2 736	19	2 875	9	3 089	23	2 341	13
Manufacturing	2 465	2	1 990	1	2 008	1	1 997	4	1 510	0
Food and Beverage Services	8 049	0	7 470	0	7 541	0	7 158	0	4 679	1
Others	1 381	2	1 383	1	1 573	8	1 385	2	965	1
Total	14 908	24	13 579	21	13 997	18	13 629	29	9 495	15

Note:

\* The accident statistics shown are provisional figures. Finalized statistics for the first three quarters of 2012 will be released by end-January 2013.

Most of the accidents, except those of the construction industry, were of a minor nature and mainly due to "slip, trip or fall on the same level" and "incorrect manual lifting or carrying". As for the more serious accidents that occurred in the construction industry, they were mainly due to "fall from height", "electrocution", "collapse of structures/soil", "lifting operation" and "struck by falling objects".

- (b) As a result of the enforcement actions taken by the LD in the past five years, the number of prosecutions and convictions against

employers or contractors owing to contravention of the Occupational Safety and Health Ordinance, the Factories and Industrial Undertakings Ordinance, and their subsidiary regulations are set out below:

	2008	2009	2010	2011	2012 (January to November)
Total number of summonses heard	1 887	1 846	1 787	1 703	1 984
Total number of summonses convicted	1 614	1 555	1 528	1 447	1 651

The average fine and highest fine for the common categories of offences are as follows:

Offence		<i>Failure to provide and maintain safe plant and system of work (Maximum statutory fine: \$500,000)</i>	<i>Failure to take adequate steps to prevent person from falling from a height (Maximum statutory fine: \$200,000)</i>
2008	Average fine	\$13,271	\$14,335
	Highest fine	\$66,000	\$65,000
2009	Average fine	\$12,538	\$13,166
	Highest fine	\$45,000	\$70,000
2010	Average fine	\$14,920	\$14,387
	Highest fine	\$120,000	\$50,000
2011	Average fine	\$14,368	\$14,230
	Highest fine	\$50,000	\$56,000
2012 (January to November)	Average fine	\$14,333	\$14,109
	Highest fine	\$60,000	\$50,000

- (c) In the past five years, the number of summonses heard and convicted in respect of employers' failure to notify the Commissioner for Labour of work accidents of employees within the statutory time limit according to section 15 of the ECO are as follows:

	2008	2009	2010	2011	2012
Total number of summonses heard	9	5	7	9	4
Total number of summonses convicted	6	5	5	6	2
Highest fine (per summons)	\$5,000	\$4,000	\$4,000	\$5,000	\$10,000

During this period, no prosecution was taken out against employers for providing false or misleading information when giving notice of work accidents.

- (d) For employees who suffer from work injury and choose to seek medical service at the public healthcare sector, public hospitals managed by the Hospital Authority (HA) will provide a range of continuous services involving accident and emergency, out-patient, in-patient and rehabilitative services, similar to treatment of other patients suffering from injury. The HA has a triage system in place in all of the aforementioned services, and will classify patients according to their level of severity and clinical conditions, in order to ensure that patients are given timely treatment to suit their clinical conditions. The HA will also make referrals for patients who are in need of further follow-up treatment, specialist diagnosis, in-patient and rehabilitative care (including physiotherapy and occupational therapy).

A Voluntary Rehabilitation Programme (VRP) has been launched by the LD in phases since March 2003. The objective is to provide, through insurers, an additional channel for injured employees to receive timely and free private sector medical and rehabilitation services. This would facilitate injured employees' better and speedier recovery as well as their safe and early return to work. Since January 2007, VRP has been extended to cover all industries.

Insurers participating in VRP will appoint an "Injury Management Co-ordinator" to co-ordinate and follow up the injured employees' rehabilitation programmes, which includes communicating with the employers to arrange "Work Trials" and reshuffling of duties after the injured employees have been certified by their attending doctors

to be fit for work trials. This would facilitate their speedier recovery and return to their original posts or taking up other responsibilities. Employers will also benefit from employees' early return to work and closure of work injury cases.

- (e) The LD has taken into account the actual circumstances and the uniqueness of various sectors in drawing up programmes to enhance employees' awareness of occupational safety and health. In view of the higher accident toll in the construction and catering industries, the LD, in collaboration with relevant industry stakeholders, has been organizing large-scale publicity and promotional activities, including the Construction Industry Safety Award Scheme and the Catering Industry Safety Award Scheme. The LD has also been staging diversified promotional and publicity activities, including thematic safety seminars and talks, roving exhibitions, broadcasting of Announcements in the Public Interest on television and radio, as well as production and dissemination of pictorial safety leaflets and notepads, to enhance the safety awareness of the workers. In addition, the LD has been promoting measures for preventing lower limb diseases such as varicose veins and plantar fasciitis to employees and their employers in the retail and catering industries; for preventing heat stroke at work during summer to outdoor workers and their employers in the construction industry, cleansing industry and container yards; and for preventing tenosynovitis of the hand or forearm to clerical personnel, cooks and personal services employees. Relevant activities include showing promotional videos on mobile advertising media, paying promotional visits to workplaces, distributing educational pamphlets and promotional souvenirs, and organizing health talks.

The LD targets high risk industries for rigorous enforcement actions, so as to urge employers to comply with safety legislation and ensure the safety and health of employees. In 2012, the LD launched two special enforcement operations targeting repair, maintenance, alteration and addition works. As a result, the LD issued 215 suspension notices (SN) (three times of 2011) and more than 260 improvement notices (IN) (two times of 2011), and initiated more than 360 prosecutions (2.5 times over those of 2011). In addition, the LD in conjunction with the Electrical and Mechanical Services

Department conducted a joint blitz operation on electrical work safety in October 2012. During the operation, around 50 workplaces were inspected within two weeks. As a result, the LD issued seven SNs and 42 INs with 48 prosecutions initiated.

- (f) The Government will review the labour legislation from time to time, having regard to social changes and the pace of economic development of Hong Kong and the actual local circumstances to ensure that such legislation can cater for the latest situation. The ECO has been amended in a number of areas in recent years. For example, in 2000, the system of settling compensation claims for fatal cases under ECO was improved; in 2005, Severe Acute Respiratory Syndrome (that is, SARS) and Avian Influenza A were made compensable occupational diseases under ECO; and in 2008, the medical treatment, examination and certification given by registered Chinese medicine practitioners were recognized for the purpose of employees' entitlement to benefits under ECO.

Moreover, the Government reviews the levels of compensation provided for under ECO every two years in accordance with the existing mechanism. Adjustment of the amount of compensation items which are related to the earnings of employees is made by reference to the wage movement to ensure that the levels of compensation can catch up with wage growth. As for items related to the expenditure on the procurement of services or goods, adjustment of the compensation amounts is made according to the inflation rate to maintain the purchasing power of employees. In the latest round of review, the Government further made a special arrangement to revisit the wage and price changes in the three years covering 2009 to 2011 in view of the impact of the implementation of the statutory minimum wage from May 2011 on wages and prices. On 17 July 2012, the Legislative Council also passed the Government's proposal to raise the amount of eight ECO items according to the review findings. The new levels of compensation have taken effect since 20 July 2012 for the benefit of the injured employees and their family members.

We will adhere to the established mechanism in reviewing the levels of compensation under ECO every two years. We will also



**SECRETARY FOR FOOD AND HEALTH** (in Chinese): President,

(a), (b) and (e)

The HA provides different kinds of public healthcare services throughout the territory to enable patients to have convenient access to these services according to their needs. The HA encourages patients to seek medical treatment from the hospital clusters/regional hospitals in the districts of their residence so as to facilitate the follow-up of any of their chronic conditions and the provision of community support. Nevertheless, individual patients may have other considerations when they choose a medical facility for medical treatment. For instance, they may choose to receive medical treatment at a specialist or general out-patient clinic in a certain district for the convenience of travelling to and from their work place. And under emergency circumstances, they may also be transferred to an acute hospital in the proximity to the pick-up location having regard to the ambulance route, and so on.

In respect of parts (a), (b) and (e) of the question, statistical figures pertaining to the specialist out-patient, general out-patient and accident and emergency services provided by the HA, broken down by hospital cluster and year, are set out in Annexes 1 to 3 respectively.

Since the HA manages its resources allocation and service arrangements on the basis of hospital clusters, the analysis of statistical figures on cross-district services are based on hospital clusters instead of District Council districts. Besides, as the HA adopted a computer program in phases after the SARS incident to assist front-line staff to systematically input the residential address reported by patients and convert them into district codes for analysis, and the computer system of the HA mainly records the number of attendances (instead of the number of patients), an analysis of patients' reported residential addresses can only be provided starting from 2006-2007 in terms of the numbers of attendances.

(c) and (d)

As for the services of the DH, members of the public in general are not required to use the service of the DH according to the district of their residence. They may choose to receive services from any clinic/centre taking into account such factors as district of residence, place of work or personal preferences, and so on. As the computer systems of the respective services mainly record the number of attendances and are unable to compile statistical figures based on the residential addresses of the service users, we can only provide a breakdown of the number of attendances in the clinics/centres by District Council districts.

The public general out-patient clinics under the DH have been transferred to the HA since July 2003. We have already provided in Annex 2 statistical figures pertaining to the general out-patient service provided by the HA. As for statistical figures pertaining to the specialist out-patient service and primary care and health services provided by the DH during the same period, they are set out in Annex 4 and 5 respectively.

Annex 1

### Number of Attendances of Specialist Out-patient Service Provided by the HA

(a) 2006-2007

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	599 298	119 443	16 124	5 781	15 298	8 116	1 850	765 910
HKW	52 557	389 999	8 880	2 300	7 478	4 798	1 271	467 283
KC	7 218	16 384	266 534	7 926	81 644	12 868	1 738	394 312
KE	28 218	30 174	142 402	497 549	60 997	29 988	2 799	792 127
KW	20 783	54 229	364 861	50 905	1 107 986	59 662	17 860	1 676 286
NTE	9 835	23 500	61 435	28 108	53 319	764 953	11 115	952 265
NTW	5 769	20 182	25 658	4 413	46 454	41 160	604 635	748 271
Others (for example, Macao, Mainland China, and so on)	419	3 335	2 744	216	2 034	2 243	729	11 720
Overall	724 097	657 246	888 638	597 198	1 375 210	923 788	641 997	5 808 174



## (b) 2007-2008

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	587 677	113 966	15 595	5 170	14 966	7 741	1 830	746 945
HKW	46 421	399 802	8 529	2 155	7 281	4 963	1 259	470 410
KC	6 874	16 095	278 392	7 329	75 551	12 388	1 730	398 359
KE	26 399	29 146	140 703	479 719	53 272	26 916	2 671	758 826
KW	20 291	52 209	361 329	45 568	1 132 341	56 044	16 062	1 683 844
NTE	9 696	22 377	60 017	26 964	48 307	764 177	10 403	941 941
NTW	5 876	19 309	25 722	4 040	42 019	39 503	626 630	763 099
Others (for example, Macao, Mainland China, and so on)	350	3 200	2 199	208	1 510	2 651	649	10 767
Overall	703 584	656 104	892 486	571 153	1 375 247	914 383	661 234	5 774 191

## (c) 2008-2009

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	597 432	111 898	15 773	5 237	15 060	7 843	1 884	755 127
HKW	39 537	422 455	8 879	2 250	7 241	4 872	1 321	486 555
KC	6 905	16 013	286 788	7 259	74 641	12 175	1 681	405 462
KE	25 807	29 646	137 690	501 400	51 166	25 486	2 825	774 020
KW	19 829	51 823	362 570	46 890	1 175 105	54 098	16 711	1 727 026
NTE	9 683	22 135	58 292	27 870	46 828	785 189	10 400	960 397
NTW	5 868	19 417	25 168	3 936	40 911	36 388	663 545	795 233
Others (for example, Macao, Mainland China, and so on)	330	3 412	2 180	202	1 376	3 261	811	11 572
Overall	705 391	676 799	897 340	595 044	1 412 328	929 312	699 178	5 915 392

## (d) 2009-2010

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	627 856	112 469	16 498	5 113	15 017	8 375	2 021	787 349
HKW	38 358	442 789	9 487	2 198	7 318	5 767	1 264	507 181
KC	6 932	16 798	301 034	7 195	75 694	12 928	1 897	422 478
KE	25 810	30 803	142 122	536 502	51 832	25 793	3 095	815 957
KW	19 630	54 250	375 494	47 252	1 223 694	56 194	17 081	1 793 595
NTE	10 112	23 325	59 218	29 007	46 389	837 631	10 595	1 016 277
NTW	6 055	19 950	25 321	3 979	40 178	35 996	711 669	843 148
Others (for example, Macao, Mainland China, and so on)	298	3 629	2 243	150	1 260	3 491	965	12 036
Overall	735 051	704 013	931 417	631 396	1 461 382	986 175	748 587	6 198 021

## (e) 2010-2011

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	639 357	113 360	16 569	5 425	15 159	8 353	2 157	800 380
HKW	38 404	466 757	9 623	2 225	7 056	5 511	1 410	530 986
KC	7 239	16 470	313 227	7 393	74 735	12 388	2 022	433 474
KE	26 901	32 358	143 410	569 179	53 405	26 450	3 568	855 271
KW	20 788	56 201	381 669	48 199	1 262 932	54 219	17 973	1 841 981
NTE	10 291	24 080	60 350	30 331	46 128	862 884	11 082	1 045 146
NTW	6 419	20 735	26 012	4 166	40 790	35 186	752 032	885 340
Others (for example, Macao, Mainland China, and so on)	321	4 071	2 845	164	1 231	3 393	1 159	13 184
Overall	749 720	734 032	953 705	667 082	1 501 436	1 008 384	791 403	6 405 762

Notes:

- (1) Statistical figures in the above tables only cover doctor consultation service.
- (2) "Others" includes cases where patients provided a non-Hong Kong address or failed to provide residential information.

HKE - Hong Kong East Cluster

HKW - Hong Kong West Cluster

KC - Kowloon Central Cluster

KE - Kowloon East Cluster

KW - Kowloon West Cluster

NTE - New Territories East Cluster

NTW - New Territories West Cluster

## Annex 2

## Number of Attendances of General Out-patient Service Provided by the HA

## (a) 2006-2007

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	385 053	14 608	3 594	4 070	34 786	2 306	1 320	445 737
HKW	29 291	251 976	2 263	1 575	4 322	1 534	1 113	292 074
KC	4 033	2 149	245 443	5 886	48 874	3 210	1 243	310 838
KE	11 409	4 809	33 296	576 424	44 086	6 496	2 466	678 986
KW	12 537	7 342	131 154	40 314	1 237 046	14 759	10 330	1 453 482

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
NTE	6 554	3 227	21 853	56 482	35 763	714 436	8 320	846 635
NTW	3 644	2 256	6 434	2 972	22 649	11 616	745 345	794 916
Others (for example, Macao, Mainland China, and so on)	447	453	554	952	5 354	1 773	770	10 303
Overall	452 968	286 820	444 591	688 675	1 432 880	756 130	770 907	4 832 971

## (b) 2007-2008

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	391 105	15 025	3 260	3 715	33 479	2 323	1 289	450 196
HKW	28 541	256 508	2 347	1 453	3 755	1 456	971	295 031
KC	3 674	2 290	255 102	5 604	44 742	3 139	1 160	315 711
KE	11 006	4 617	32 196	591 945	40 322	6 250	1 820	688 156
KW	11 872	7 720	131 641	38 157	1 225 029	14 067	9 207	1 437 693
NTE	5 984	3 221	21 972	50 987	33 851	741 588	6 294	863 897
NTW	3 372	2 415	6 117	2 698	21 522	11 759	689 438	737 321
Others (for example, Macao, Mainland China, and so on)	312	400	430	622	2 891	1 688	602	6 945
Overall	455 866	292 196	453 065	695 181	1 405 591	782 270	710 781	4 794 950

## (c) 2008-2009

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	395 818	16 431	3 549	3 745	33 026	2 333	1 137	456 039
HKW	28 630	270 566	2 208	1 470	4 039	1 571	938	309 422
KC	3 662	2 288	269 153	5 559	45 942	3 023	1 047	330 674
KE	11 114	5 086	34 545	621 352	41 125	6 572	1 820	721 614
KW	11 749	8 032	140 102	40 152	1 245 887	14 033	8 548	1 468 503
NTE	5 981	3 473	22 881	52 264	34 834	776 245	5 827	901 505
NTW	3 224	2 405	6 638	2 712	21 387	11 927	670 415	718 708
Others (for example, Macao, Mainland China, and so on)	280	323	426	434	2 054	1 514	482	5 513
Overall	460 458	308 604	479 502	727 688	1 428 294	817 218	690 214	4 911 978

## (d) 2009-2010

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	371 857	12 359	2 819	3 592	32 782	2 098	1 130	426 637
HKW	29 268	222 055	1 889	1 315	4 095	1 267	798	260 687
KC	3 631	1 815	245 726	4 837	46 239	2 821	1 107	306 176
KE	11 385	4 404	29 222	596 193	43 082	6 025	1 870	692 181
KW	11 263	6 260	120 972	35 475	1 237 401	13 287	8 165	1 432 823
NTE	5 801	2 683	18 548	51 392	35 386	733 593	5 691	853 094
NTW	3 358	1 931	5 523	2 371	21 370	10 691	613 460	658 704
Others (for example, Macao, Mainland China, and so on)	312	214	293	288	1 433	1 137	547	4 224
Overall	436 875	251 721	424 992	695 463	1 421 788	770 919	632 768	4 634 526

## (e) 2010-2011

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	396 292	14 677	3 045	3 820	32 942	2 228	1 081	454 085
HKW	29 857	254 990	2 100	1 466	4 269	1 275	846	294 803
KC	3 875	2 205	264 560	5 075	46 406	2 861	1 274	326 256
KE	12 398	5 389	34 410	618 400	45 499	7 017	2 151	725 264
KW	11 462	7 728	133 958	37 324	1 268 109	14 291	9 271	1 482 143
NTE	5 953	3 300	21 387	50 987	35 768	789 935	6 012	913 342
NTW	3 498	2 408	6 240	2 526	21 434	11 495	659 124	706 725
Others (for example, Macao, Mainland China, and so on)	421	151	294	195	1 239	1 294	517	4 111
Overall	463 756	290 848	465 994	719 793	1 455 666	830 396	680 276	4 906 729

Notes:

- (1) Statistical figures in the above tables only cover doctor consultation service.
- (2) Figures pertaining to Ta Kwu Ling General Out-patient Clinic and Sha Tau Kok General Out-patient Clinic for and prior to October 2006 cannot be reflected in the above tables due to computer system upgrading.
- (3) "Others" includes cases where patients provided a non-Hong Kong address or failed to provide residential information.
- (4) Eight general out-patient clinics have been designated as a Human Swine Flu (Influenza A H1N1) Clinic since 13 June 2009. Attendances at the flu clinics during the period are not counted in the figures above for 2009-2010 and 2010-2011.

HKE - Hong Kong East Cluster

HKW - Hong Kong West Cluster

KC - Kowloon Central Cluster

KE - Kowloon East Cluster

KW - Kowloon West Cluster

NTE - New Territories East Cluster

NTW - New Territories West Cluster

## Annex 3

## Number of Attendances of Accident and Emergency Service Provided by the HA

## (a) 2006-2007

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	197 664	10 376	2 756	2 275	5 904	2 504	574	222 053
HKW	20 090	100 311	1 711	980	2 760	1 456	395	127 703
KC	2 955	1 261	80 877	2 552	34 593	2 734	541	125 513
KE	7 819	2 404	15 770	250 963	18 145	6 633	997	302 731
KW	9 022	4 639	84 030	28 060	458 366	15 362	3 884	603 363
NTE	4 675	1 950	8 383	14 224	18 640	333 989	2 137	383 998
NTW	3 258	1 761	4 483	2 088	19 138	20 705	221 905	273 338
Others (for example, Macao, Mainland China, and so on)	1 400	1 098	2 477	907	3 744	3 808	640	14 074
Overall	246 883	123 800	200 487	302 049	561 290	387 191	231 073	2 052 773

## (b) 2007-2008

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	199 849	10 281	2 797	2 161	5 546	2 535	674	223 843
HKW	19 481	101 618	1 675	918	2 748	1 407	614	128 461
KC	2 889	1 254	84 482	2 480	32 989	2 717	695	127 506
KE	7 667	2 321	15 407	245 478	16 625	6 279	1 293	295 070
KW	9 031	4 614	83 472	27 058	458 737	14 752	4 906	602 570
NTE	4 590	1 923	7 975	14 468	17 573	338 359	3 048	387 936
NTW	3 345	1 740	4 548	2 133	17 798	18 024	261 037	308 625
Others (for example, Macao, Mainland China, and so on)	1 370	1 096	2 546	868	3 767	3 646	595	13 888
Overall	248 222	124 847	202 902	295 564	555 783	387 719	272 862	2 087 899

## (c) 2008-2009

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	198 950	9 897	2 627	2 178	5 348	2 340	882	222 222
HKW	19 287	98 807	1 507	905	2 508	1 489	698	125 201
KC	2 920	1 247	85 704	2 360	32 711	2 739	933	128 614
KE	7 350	2 450	14 767	244 976	15 886	5 983	1 638	293 050
KW	8 803	4 345	83 865	26 933	455 720	13 941	6 082	599 689
NTE	4 432	1 782	7 906	14 576	16 993	337 915	3 864	387 468
NTW	3 274	1 705	4 219	2 100	16 906	13 637	304 232	346 073

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
Others (for example, Macao, Mainland China, and so on)	1 341	1 249	2 436	759	3 642	3 956	805	14 188
Overall	246 357	121 482	203 031	294 787	549 714	382 000	319 134	2 116 505

## (d) 2009-2010

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	202 166	9 524	2 604	2 219	5 724	2 512	912	225 661
HKW	20 105	102 994	1 556	1 032	2 594	1 470	661	130 412
KC	2 901	1 348	90 945	2 508	34 081	2 798	1 126	135 707
KE	7 767	2 403	14 940	264 034	16 696	6 161	1 640	313 641
KW	8 805	4 544	86 674	27 508	474 867	14 212	6 767	623 377
NTE	4 452	1 894	8 183	15 587	16 879	351 591	4 403	402 989
NTW	3 165	1 698	4 087	2 074	16 504	12 627	328 659	368 814
Others (for example, Macao, Mainland China, and so on)	1 474	1 256	2 539	749	3 470	3 509	820	13 817
Overall	250 835	125 661	211 528	315 711	570 815	394 880	344 988	2 214 418

## (e) 2010-2011

<i>Patients' district of residence in terms of hospital cluster</i>	<i>Hospital cluster which provided the service</i>							<i>HA Overall</i>
	<i>HKE</i>	<i>HKW</i>	<i>KC</i>	<i>KE</i>	<i>KW</i>	<i>NTE</i>	<i>NTW</i>	
HKE	203 149	9 983	2 584	2 263	5 704	2 384	1 143	227 210
HKW	20 237	104 452	1 563	989	2 594	1 489	710	132 034
KC	3 043	1 411	91 077	2 504	32 921	2 815	1 162	134 933
KE	7 986	2 568	15 477	265 891	17 478	6 195	1 881	317 476
KW	8 812	4 819	87 119	26 652	479 815	13 878	7 278	628 373
NTE	4 533	2 068	7 955	16 019	16 617	350 516	4 894	402 602
NTW	3 337	1 830	4 174	1 999	16 691	11 864	340 265	380 160
Others (for example, Macao, Mainland China, and so on)	1 514	1 267	2 681	906	3 568	3 443	1 081	14 460
Overall	252 611	128 398	212 630	317 223	575 388	392 584	358 414	2 237 248

Note:

"Others" includes cases where patients provided a non-Hong Kong address or failed to provide residential information.

HKE - Hong Kong East Cluster

HKW - Hong Kong West Cluster

KC - Kowloon Central Cluster

KE - Kowloon East Cluster

KW - Kowloon West Cluster

NTE - New Territories East Cluster

NTW - New Territories West Cluster

## Annex 4

## Specialist Out-patient Service Provided by the DH

The number of attendances at specialist out-patient clinics and child assessment centres from 2006 to 2011 are as follows:

	2006	2007	2008	2009	2010	2011
Specialist out-patient clinics						
- TB and Chest	799 000	790 000	762 000	756 000	752 000	731 500
- Dermatology	240 000	246 000	246 000	253 500	252 700	245 500
- HIV/AIDS	11 100	13 300	12 500	12 600	13 400	14 000
Child assessment centres	30 000	27 000	25 700	26 200	32 300	33 800
Overall	1 080 100	1 076 300	1 046 200	1 048 300	1 050 400	1 024 800

Note:

Only overall attendances are set out in the above table as specialist out-patient clinics and child assessment centres were not provided in all districts.

## Annex 5

## Primary care services provided by the DH

The number of attendances at maternal and child health centres (MCHCs) and the number of attendances for health assessment and medical consultation at elderly health centres (EHCs) in various districts from 2006 to 2011 are set out below.

## (a) Attendances at MCHCs

## (i) Child health service

<i>District Council district served by MCHCs providing the service</i>	2006	2007	2008	2009	2010	2011
Central and Western	17 500	16 100	15 100	15 500	16 400	15 600
Eastern	50 700	45 600	44 000	43 000	44 000	42 000
Southern	14 900	14 100	13 500	14 000	14 400	14 100
Wan Chai	11 000	9 500	8 800	8 900	9 700	9 900
Kowloon City	23 500	21 000	21 400	21 800	23 300	24 700
Kwun Tong	55 100	48 100	49 300	48 800	49 600	51 800

<i>District Council district served by MCHCs providing the service</i>	2006	2007	2008	2009	2010	2011
Sham Shui Po	43 300	39 800	39 700	39 100	40 700	40 700
Yau Tsim Mong	29 400	27 200	27 000	26 800	29 100	32 500
Wong Tai Sin	48 000	39 000	38 400	38 200	37 800	37 800
Islands	12 100	10 000	10 100	10 100	10 300	10 100
Kwai Tsing	47 900	37 500	36 700	36 900	36 100	35 800
North	42 200	37 300	36 100	39 300	45 300	49 700
Sai Kung	39 900	38 300	37 500	37 800	37 500	37 800
Sha Tin	60 600	50 600	47 100	47 200	49 900	53 700
Tai Po	27 800	22 400	23 400	23 200	24 300	25 200
Tsuen Wan	38 900	33 100	35 500	35 700	37 100	37 800
Tuen Mun	50 500	43 600	42 900	44 700	47 600	52 200
Yuen Long	76 700	66 800	59 500	61 000	63 900	65 600
Total	690 000	600 000	586 000	592 000	617 000	637 000

## (ii) Maternal health service

<i>District Council district served by MCHCs providing the service</i>	2006	2007	2008	2009	2010	2011
Central and Western	6 400	6 300	5 900	5 500	5 700	6 400
Eastern	10 100	12 800	12 200	11 600	11 500	11 500
Southern	3 400	4 100	3 800	4 100	4 000	4 600
Wan Chai	3 700	3 800	3 500	3 600	3 300	3 800
Kowloon City	2 800	3 600	3 900	3 500	3 500	3 400
Kwun Tong	8 000	11 400	9 600	9 000	8 300	10 000
Sham Shui Po	5 300	6 400	5 800	5 700	6 000	5 900
Yau Tsim Mong	2 800	3 100	3 000	3 000	2 900	2 500
Wong Tai Sin	3 700	3 700	3 600	3 200	2 900	2 700
Islands	2 800	3 400	3 200	3 700	3 800	3 800
Kwai Tsing	5 500	8 300	9 000	9 100	8 500	9 000
North	9 300	11 100	11 300	11 700	10 100	11 200
Sai Kung	6 600	8 200	8 200	7 600	6 300	7 700
Sha Tin	15 700	18 600	19 400	20 200	16 900	20 500
Tai Po	7 900	9 400	10 100	9 600	8 100	9 000
Tsuen Wan	9 700	13 400	13 400	12 400	12 000	13 000
Tuen Mun	13 800	17 900	18 600	17 900	16 700	19 200
Yuen Long	20 500	22 500	22 500	22 600	21 500	22 800
Total	138 000	168 000	167 000	164 000	152 000	167 000



## (iii) Family planning service

<i>District Council district served by MCHCs providing the service</i>	2006	2007	2008	2009	2010	2011
Central and Western	3 700	3 400	3 200	2 700	2 500	2 300
Eastern	11 900	10 500	9 800	9 000	7 800	7 400
Southern	4 300	4 100	3 800	3 200	3 100	3 000
Wan Chai	1 900	1 700	1 700	1 600	1 400	1 300
Kowloon City	3 600	3 200	3 200	2 900	2 900	2 700
Kwun Tong	11 800	10 400	10 100	9 500	8 900	9 200
Sham Shui Po	8 900	8 300	8 700	8 200	7 600	7 000
Yau Tsim Mong	4 100	3 500	3 200	3 400	3 000	2 700
Wong Tai Sin	11 200	10 100	9 600	8 900	7 700	6 600
Islands	4 000	3 600	3 700	3 300	3 000	2 900
Kwai Tsing	10 900	8 500	8 900	8 200	7 100	7 100
North	9 000	8 200	8 200	7 900	7 300	7 400
Sai Kung	9 900	8 900	8 400	7 700	6 500	6 200
Sha Tin	23 100	21 500	21 100	19 400	17 000	16 700
Tai Po	12 300	10 600	10 900	9 600	7 700	7 000
Tsuen Wan	9 700	8 900	10 100	9 800	9 200	9 200
Tuen Mun	19 600	16 800	16 000	13 400	10 700	9 700
Yuen Long	19 100	17 800	17 400	16 300	14 600	14 600
Total	179 000	160 000	158 000	145 000	128 000	123 000

## (iv) Cervical screening service

<i>District Council district served by MCHCs providing the service</i>	2006	2007	2008	2009	2010	2011
Central and Western	1 100	1 100	1 900	2 000	1 700	1 600
Eastern	4 900	5 400	6 700	7 200	7 100	6 700
Southern	2 100	2 100	2 100	2 000	2 100	1 800
Wan Chai	1 800	2 000	1 500	1 500	1 300	1 200
Kowloon City	4 200	4 300	1 800	1 900	1 800	1 700
Kwun Tong	2 300	2 500	7 300	7 300	7 500	8 000
Sham Shui Po	4 800	4 400	6 200	6 000	6 200	6 000
Yau Tsim Mong	4 800	4 400	4 300	4 100	3 900	3 300
Wong Tai Sin	11 000	10 500	5 500	5 600	5 400	5 200
Islands	8 700	8 400	2 400	2 400	2 300	2 000
Kwai Tsing	13 100	15 700	7 700	7 700	7 200	6 900
North	7 600	8 200	5 800	5 400	5 500	5 400

<i>District Council district served by MCHCs providing the service</i>	2006	2007	2008	2009	2010	2011
Sai Kung	4 400	4 700	4 500	4 400	4 400	4 200
Sha Tin	2 900	2 800	11 300	10 500	10 600	10 600
Tai Po	1 900	2 100	5 100	4 800	5 000	4 700
Tsuen Wan	7 300	6 000	7 700	7 400	7 400	7 000
Tuen Mun	8 100	8 900	8 600	8 100	8 200	7 900
Yuen Long	6 000	6 500	11 600	10 700	11 400	10 800
Total	97 000	100 000	102 000	99 000	99 000	95 000

(b) Number of attendances for health assessment and medical consultation at EHCs

<i>District Council district served by EHCs providing the service</i>	2006	2007	2008	2009	2010	2011
Central and Western	9 800	9 900	9 800	9 700	10 300	9 200
Eastern	9 900	9 600	9 300	8 100	9 100	9 000
Southern	11 500	11 500	11 400	11 300	11 000	10 500
Wan Chai	10 900	10 700	9 700	8 800	9 000	9 100
Kowloon City	9 400	9 300	8 900	9 200	9 500	9 000
Kwun Tong	10 100	9 000	9 300	9 300	9 300	8 900
Sham Shui Po	9 600	9 200	8 500	8 600	8 800	9 200
Yau Tsim Mong	11 300	10 600	9 900	9 400	9 300	9 000
Wong Tai Sin	10 700	9 800	9 800	9 800	9 800	9 600
Islands	5 600	7 500	7 900	8 100	8 300	8 300
Kwai Tsing	10 000	8 500	8 200	8 300	8 100	8 100
North	13 300	13 100	12 100	12 300	12 900	12 600
Sai Kung	11 100	11 400	11 200	11 200	10 600	10 300
Sha Tin	11 100	10 800	10 700	11 100	10 800	11 200
Tai Po	10 700	10 600	10 300	10 400	10 100	9 900
Tsuen Wan	11 700	11 500	10 600	10 600	10 300	10 300
Tuen Mun	11 100	10 800	10 300	9 900	9 600	9 700
Yuen Long	8 200	8 100	8 000	8 300	8 300	8 400
Total	186 000	181 900	175 900	174 400	175 100	172 300

### **Project to Construct Public Rental Housing in Tung Chung Area 56**

11. **MR TAM YIU-CHUNG** (in Chinese): *President, recently, some Tung Chung residents have relayed to me that the former Secretary for Development*

*indicated in June 2012 when attending an event that the authorities would shelve the project to construct public rental housing (PRH) on the residential site in Tung Chung Area 56 (the site) as the residents in the district had expressed reservation about the project, and the authorities would hold further discussions with the residents. The authorities so far have not conducted any consultation activities but the site has been enclosed and a series of advance works are being carried out on it. Quite a number of Tung Chung residents have expressed concern in this regard, and hope that the authorities could give a detailed account of the PRH project on the site and the related ancillary transport facilities. In this connection, will the Government inform this Council:*

- (a) whether the authorities have already commenced the project to construct PRH on the site; if they have not, of the purposes of enclosing the site and carrying out advance works at present; if they have, the scale of the project (including the number of PRH blocks, the number of floors in each PRH block, as well as the number of flats to be provided in the whole project); and*
- (b) whether the authorities have considered providing comprehensive ancillary transport facilities for the aforesaid project, such as providing sufficient franchised bus routes and green minibus routes for residents to travel directly to Tung Chung town centre and other areas in Hong Kong; if they have, of the details; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, our response to the two parts of the question raised by Mr TAM Yiu-chung is as follows:

- (a) The Government and the Housing Authority (HA) are committed to providing PRH to low income families who cannot afford private rental accommodation. In view of the increasing demand for PRH, the Government and the HA are working actively to identify suitable sites in different parts of the territory, including Tung Chung, for PRH development so as to maintain the average waiting time for PRH at about three years. Since 2001, Tung Chung Area 56 has been zoned "Residential (Group A)" on the Approved Tung Chung Town Centre Area Outline Zoning Plan No. S/I-TCTC/18. The

PRH development complies fully with the planning intention, and the relevant development plan has never been shelved.

In February 2009, the HA consulted the Islands District Council (DC) on the PRH development proposal at Tung Chung Area 56. In response to the views of Islands DC Members and the local community, the PRH development proposal was revised. Compared with the proposal in 2009, the four domestic blocks in this revised proposal had been reduced from 47 to 49-storey to 41-storey. The overall building height would be below 140 mPD. The overall population would also be reduced from the original 10 300 to 9 900. The Islands DC was consulted on the revised proposal in June and again in August 2011. The foundation work of this project commenced in May 2012 and the project is expected to be completed in 2016. The HA will continue to maintain liaison with the Islands DC and the local community so as to respond to their concerns.

In addition to the construction of four 41-storey domestic blocks with about 3 600 PRH flats for about 9 900 persons, the PRH development in Tung Chung Area 56 will include other provisions such as a carpark, open space, retail facilities (including a wet market) of about 3 500 sq m, and various community and welfare facilities, so as to serve the residents of both the PRH development and the neighbouring community.

- (b) For the development of PRH projects, the Government will provide adequate transport facilities. To cope with the development in Tung Chung and the additional traffic volume that will be brought by the PRH residents in future, a new road will be constructed to connect different sites in the area to the existing Ying Hei Road and Man Tung Road nearby. The new road will be divided into southern and northern portions with the provision of lay-bys suitable for the use by public transport. This scheme is scheduled for completion in 2015/2016 to tie in with the completion of the PRH development in Tung Chung Area 56. The Transport Department will closely monitor the demand for public transport alongside the increase in population arising from the PRH development in Tung Chung Area 56 and its surrounding areas and will suitably adjust the transport provision in the district so as to provide sufficient public transport services.

**Regulation of Pharmacists and Pharmaceutical Industry**

12. **DR JOSEPH LEE** (in Chinese): *President, at present, the Pharmacy and Poisons Board of Hong Kong (the Board) is responsible for matters relating to the regulation of pharmacists and the pharmaceutical industry. Some pharmacists have relayed to me that as the Board is responsible only for the registration and disciplinary matters of pharmacists, it is not effective in promoting the professional development of pharmacists. It is noted that the Board proposed in the 1980s, and again in 1996-1997, that legislative amendments be made to place pharmacists and the pharmaceutical industry under the supervision of different authorities, and the Board had drafted a bill for that purpose. On the other hand, the Review Committee on Regulation of Pharmaceutical Products in Hong Kong published a report in 2009, making 75 recommendations on the regulatory regime for the pharmaceutical industry. In this connection, will the Government inform this Council:*

- (a) *whether the authorities have followed up the aforesaid proposed legislative amendments; if they have, of the details of the follow-up work; whether the authorities will make reference to that proposal and amend the existing legislation in order to establish a pharmacist board responsible for matters such as the registration of pharmacists, as well as their professional standards, conduct and development, and so on;*
- (b) *whether the authorities have plans to develop a code of conduct and a code of practice for pharmacists, so as to further enhance the safety in the administration of medication for patients; if they have, of the details; if not, the reasons for that; and*
- (c) *of the latest progress of the authorities' follow-up on the aforesaid 75 recommendations; whether they will implement these recommendations together with the proposal of establishing a pharmacist board; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR FOOD AND HEALTH** (in Chinese): *President, pharmacists and the pharmaceutical trade have all along been subject to stringent regulatory control in Hong Kong. The regulatory control over pharmacists and*

the pharmaceutical trade under the Pharmacy and Poisons Ordinance (Cap. 138) (PPO) and its regulations covers the registration and professional conduct of pharmacists, the registration of pharmaceutical products and practising requirements for the pharmaceutical trade, and so on. The Board established under the PPO is responsible for carrying out the provisions of the PPO.

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

- (a) The Board previously made a proposal to the Government on the establishment of different boards for separate regulation of pharmacists and the pharmaceutical trade. We also conducted a study on the proposal between 1996 and 1998. As the PPO already covered the regulation of pharmacists and the pharmaceutical trade, protecting the safety of the public regarding the purchase and use of pharmaceutical products in Hong Kong and regulating the professional conduct of pharmacists, no amendment was made to the relevant legislation at that time in response to the proposal. We understand the pharmacist profession's request for separate regulation of pharmacists and the pharmaceutical trade, and will give further deliberation to the issue.

Moreover, the Government has set up a Steering Committee on Strategic Review on Healthcare Manpower Planning and Professional Development, chaired by the Secretary for Food and Health, to conduct a strategic review of healthcare manpower planning and professional development in Hong Kong. The review will cover the 13 healthcare professions currently subject to statutory regulation including pharmacists. The Steering Committee will put forward recommendations on how to strengthen professional training and facilitate professional development having regard to the findings of the strategic review, with a view to ensuring the healthy and sustainable development of Hong Kong's healthcare system.

- (b) Formulation of a code of practice can facilitate a better regularization of the pharmacist profession and enhance public confidence in the pharmacist profession. We will consider inviting the Board to develop such a code for pharmacists so as to raise the standards of their professional services.

- (c) The Department of Health has been actively implementing the 75 recommendations put forward in the Report of the Review Committee on Regulation of Pharmaceutical Products in Hong Kong. Recommendations which have already been implemented include the setting up of the Drug Office in September 2011, raising the requirements of microbiological monitoring in the process of drug manufacturing by local drug manufacturers, stepping up inspection on drug manufacturers and traders, and provision of more information on drug safety on the website of the Drug Office, and so on. While follow-up actions are still being taken on some of the recommendations, the implementation of some others requires amendments to be made to the existing PPO and related regulations. We are now drafting the relevant legislative amendments and will submit them to the Legislative Council in due course.

Setting up of an independent Pharmacists Board is not among the recommendations of the Review Committee. We are taking forward the recommendations of the Review Committee to make legislative amendments to tackle the limitations of our existing regulation and law enforcement over pharmaceutical products under the PPO so as to enhance drug safety as soon as possible.

### **Shortage of Hostel Places for Students of Tertiary Institutions**

13. **MR CHAN KIN-POR** (in Chinese): *President, it has been reported that the eight tertiary institutions funded by the University Grants Committee (UGC) have all encountered the problem of tight supply of student hostel places. To provide 2 400 new hostel places, The Chinese University of Hong Kong is implementing a project for the construction of five student hotel blocks. However, two of these hostel blocks will not be completed until the middle or the end of next year. In view of this, the university has introduced an interim hostel place scheme in the existing colleges, namely the Chung Chi, New Asia and Shaw Colleges. Under the scheme, three students share a room for two and four students share a room for three so as to provide 340 additional hostel places. Students of these "overcrowded units" are recompensed by a 20% reduction in hostel fees. Regarding the shortage of hostel places for students of tertiary institutions, will the Government inform this Council:*

- (a) *whether it knows the total numbers of students and hostel places provided, as well as the respective numbers of students who had applied for, had been allocated with and had not been allocated with hostel places, and those who gave up their hostel places after places had been allocated to them, in each tertiary institution for the 2012-2013 academic year;*
- (b) *whether the Government will conduct surveys on the situations of university students renting accommodations in districts near the universities and the trend of rents of such residential units; if it will, of the details; if not, the reasons for that; and*
- (c) *whether the Government will introduce further measures to ensure that sufficient and good quality hostel places are available for university students and that the aforesaid interim hostel place scheme needs not be implemented again; if it will, of the details; if not, the reasons for that?*

**SECRETARY FOR EDUCATION** (in Chinese): President,

- (a) According to the information provided by the UGC-funded institutions, student hostel provision figures in the 2012-2013 academic year are tabulated below:

<i>Institution<sup>(1)</sup></i>	<i>2012-2013 academic year</i>					
	<i>Number of hostel places available for allocation<sup>(2)</sup></i>	<i>Number of students of publicly-funded undergraduate and research postgraduate programmes (full-time student equivalent)</i>	<i>Number of applicants<sup>(3)</sup></i>	<i>Number of students that should be allocated with publicly-funded hostel places under existing policy<sup>(4)</sup></i>	<i>Number of successful applicants<sup>(3)</sup></i>	<i>Number of unsuccessful applicants<sup>(3)</sup></i>
CityU	3 648	11 593	6 322	4 497	3 628	2 694
HKBU	2 333	6 346	3 845	2 422	2 331	1 514
LU	2 234	2 687	2 385	1 300	2 102	283
CUHK	7 275	17 005	10 667	7 039	6 927	3 740
HKIEd	2 281	4 792	3 031	2 000	2 256	775



<i>Institution<sup>(1)</sup></i>	<i>2012-2013 academic year</i>					
	<i>Number of hostel places available for allocation<sup>(2)</sup></i>	<i>Number of students of publicly-funded undergraduate and research postgraduate programmes (full-time student equivalent)</i>	<i>Number of applicants<sup>(3)</sup></i>	<i>Number of students that should be allocated with publicly-funded hostel places under existing policy<sup>(4)</sup></i>	<i>Number of successful applicants<sup>(3)</sup></i>	<i>Number of unsuccessful applicants<sup>(3)</sup></i>
PolyU	5 025	13 459	6 226	5 137	5 025	1 201
HKUST	4 584	9 878	7 690	4 722	4 584	3 106
HKU	6 186	16 410	15 848	7 202	6 106	9 742
Total	33 566	82 169	56 014	34 319	32 959	23 055

Notes:

(1) Abbreviations

CityU	City University of Hong Kong	HKBU	Hong Kong Baptist University
LU	Lingnan University	CUHK	The Chinese University of Hong Kong
HKIED	The Hong Kong Institute of Education	PolyU	The Hong Kong Polytechnic University
HKUST	The Hong Kong University of Science and Technology	HKU	University of Hong Kong

- (2) Including 27 427 publicly-funded hostel places available for allocation and 6 139 privately-funded places and temporary places.
- (3) Including applications from students of UGC-funded and non-UGC funded programmes. Exchange students are also included. The UGC does not have information on the number of students who have declined offers of hostel places.
- (4) Under the existing student hostel policy, the criteria for calculating the provision of publicly-funded student hostel places for most UGC-funded institutions are as follows:
- all undergraduate students should be given the opportunity to stay in student hostels for at least one year of their courses; and
  - all research postgraduate students, non-local students as well as undergraduate students whose daily travelling time exceeds four hours should be provided with student hostel places.

The UGC strives to provide its funded institutions with publicly-funded hostel places according to the existing student hostel policy and calculation criteria. The allocation of publicly-funded and privately-funded hostel places to students is a matter of institutional autonomy. However, institutions should ensure that publicly-funded hostel places are allocated only to students of publicly-funded programmes to avoid cross-subsidization of the self-financing activities of institutions.

(b) and (c)

The Administration and the UGC have all along been supporting the UGC-funded institutions in the development of student hostels of

prescribed standards in accordance with the well-established policy and criteria for calculating the provision of student hostel places. In addition, efforts have been made to seek the necessary funding support for new hostel projects through the established mechanism and procedures, and where necessary to identify suitable sites outside the campus of the institutions to meet their additional requirements for student hostel places. At present, it is anticipated that a total of some 1 733 and 4 820 publicly-funded hostel places will be provided respectively by student hostels under construction and seven hostel projects under planning.

To optimize the use of limited land resources, apart from identifying new sites for institutions, the Administration and the UGC also encourage them to make use of suitable sites within campus for hostel development or redevelop existing campus buildings into hostels so as to maximize the development and utilization of their own campus. The Government also encourages institutions to explore various options to meet students' demand for hostel places. In fact, some institutions are making available hostel places in an innovative manner, such as leasing private residential premises to provide accommodation for students.

We will continue to sustain efforts in providing institutions with publicly-funded hostel places in accordance with policy and have no immediate plans to conduct surveys on the situations of students renting accommodations near campus and the relevant rental levels.

### **Support for Victims of Family Violence**

14. **DR HELENA WONG** (in Chinese): *President, quite a number of organizations which provide services to victims of family violence have relayed to me that, albeit the frequent occurrence of family violence incidents, the number of criminal cases relating to family violence as published by the police has been on the low side, and the authorities' support for victims of family violence is also inadequate. In this connection, will the Government inform this Council:*

- (a) *of the criteria used by the police for determining whether individual cases should be regarded as "family violence" or "family dispute" and the ranks of the police officers who make such determinations; of the respective numbers of these two categories of cases handled by the police in the past five years; given that the aforesaid organizations have pointed out that the criteria adopted by the police are ambiguous, resulting in incorrect assessment of the situation faced by victims of family violence, whether the police will conduct a review in this regard; if they will, of the details; if not, the reasons for that;*
- (b) *of the respective measures taken by the authorities to help victims of family violence and persons involved in family disputes;*
- (c) *given that the aforesaid organizations have pointed out that the time for family violence cases set down for hearings by the Family Court is too long, rendering the victims unable to receive support expeditiously, whether the authorities will allocate additional resources to the Family Court to enable it to deal with family violence cases and family dispute cases separately, so as to shorten the set-down time; and*
- (d) *whether the authorities will consider setting up an "alimony council" to assist victims of family violence in recovering alimony payments from their ex-spouses who had used violence against them; if they will, of the details; if not, the reasons for that?*

**SECRETARY FOR LABOUR AND WELFARE** (in Chinese): President, my reply to Dr Helena WONG's question is as follows:

- (a) When handling domestic conflict reports, the police would classify the cases, according to the degree of seriousness, into three categories, namely "Domestic Violence (Crime)", "Domestic Violence (Miscellaneous)" and "Domestic Incidents".

Domestic violence refers to "any behaviour involving an assault or a breach of the peace between parties who can generally be described as married or having a family relationship". "Married or having a

family relationship" refers to married, separated or divorced couples, cohabitants or former cohabitants (irrespective of gender) and lovers or former lovers (irrespective of gender). Domestic Violence (Crime) cases include murder, manslaughter, wounding, serious assault, rape, indecent assault, criminal intimidation, criminal damage, possession of offensive weapon, and so on. Domestic Violence (Miscellaneous) cases include common assault and when harm is likely to be done to a person, and so on.

The police created the "Domestic Incident" category in January 2009 to include non-violent incidents occurring in a "married or having a family relationship" context, which are without any crime element, such as dispute, nuisance, annoyance, distress, and so on. These cases are also recorded in the Enhanced Central Domestic Violence Database (ECDVD) to ensure that the overall situation of domestic conflict is fully reflected.

The police have provided training to the front-line and supervisory officers so that they can classify the cases appropriately according to the situation. An officer of the rank of Sergeant or above must attend the scene of every domestic conflict case to supervise and to ensure that the case is properly handled and classified. Supervisory officers are required to review the cases to ensure that their cases are appropriately classified.

Figures of domestic conflict cases received and handled by the police in the past five years are at Annex.

- (b) Handling domestic conflict reports professionally is one of the Commissioner of Police's Operational Priorities. The following measures have been adopted so that the police could prosecute the culprits and protect the victims and their dependants effectively.

*Initial Actions*

- an officer of the rank of Sergeant or above must attend the scene of every domestic conflict case to ensure the case is properly handled;

- victims and their dependants will be referred for welfare and medical assistance if appropriate;
- the ECDVD is an electronic database that records details of all domestic conflict cases. Officers handling a new domestic conflict case must check the ECDVD to see if the persons involved in the case have a previous record on domestic conflict; and
- there is an automatic alert system in the ECDVD. When a person is involved in domestic conflict cases repeatedly, the ECDVD will automatically "bring-up" a message to the officer-in-charge of the case and his supervisor for risk assessment.

*Investigation and Follow-Up Actions of Domestic Violence Reports*

- if there is evidence that a domestic violence offence took place, the culprit will be arrested as soon as possible to protect victims from being attacked again. Offenders will be charged or bound over if there is sufficient evidence;
- the police adopt the "One-family-one-team" system. The same investigation team will investigate cases involving the same family;
- each Police District has at least one "Designated Domestic Violence Investigation Unit" that handles all serious domestic violence cases; and
- the police will deal with the victims of domestic conflicts carefully, having regard to their feeling, providing them with security advice, referring them for welfare assistance and medical attention as appropriate, and keeping them informed of the progress of the investigation and any subsequent legal procedures.

The Social Welfare Department (SWD) has set up 11 Family and Child Protective Services Units specializing in providing one-stop

support services for victims of child abuse and spouse/cohabitant battering and their families. Social workers would render outreaching, social investigation, crisis intervention, casework counselling and group treatment, and so on, according to the needs of the cases. Social workers would also arrange referrals for various services, such as clinical psychology service, legal aid, financial assistance, temporary accommodation, housing assistance and child care service, and so on, as necessary so as to help the victims and their family members tide over the difficulty, lessen the trauma brought by violence and start a new life.

On the other hand, refuge centres for women, the Family Crisis Support Centre and the Multi-purpose Crisis Intervention and Support Centre provide immediate shelter and support to individuals encountering serious personal or family problems and those suffering from domestic violence.

To further support victims of domestic violence, in particular those undergoing legal proceedings, the SWD has launched the Victim Support Programme for Victims of Family Violence (VSP) since June 2010. VSP provides emotional support and community support services to victims as well as information on legal proceedings so as to alleviate the victims' feeling of fear and helplessness and help them resume normal living.

Apart from supporting the victims of domestic violence, an important component of the strategy on preventing and handling domestic violence is counselling for the batterers. The SWD provides various types of counselling service for batterers, such as the Batterer Intervention Programme and Anti-violence Programme, to help them change their abusive attitude and behaviour.

For individuals facing family disputes, they may seek counselling from the Integrated Family Service Centres (IFSCs). Currently, there are 62 IFSCs run by the SWD or non-governmental organizations. The Administration will set up three additional IFSCs in early 2013, bringing the total number of IFSCs to 65.

- (c) We have consulted the Judiciary on part (c) of the question and have received the following information.

"The Family Court will normally accord priority to applications for injunctions under the Domestic and Cohabitation Relationships Violence Ordinance (Cap. 189) to ensure the timely handling of domestic violence cases. For such urgent applications, the Family Court Registry will make arrangement for the applicant to see a Family Court Duty Judge as soon as practicable.

The District Court and the Magistrates' Courts have put in place an expedited mechanism since 2009 to enable the fast-track listing of suitable domestic violence cases. This mechanism is found to be working satisfactorily. The situation will continue to be closely monitored to ensure that domestic violence cases are appropriately dealt with."

- (d) The Administration has strived to improve the system of collection of maintenance payments and enforcement of maintenance orders. The Administration has also carefully examined the suggestion of setting up a maintenance board. We consider that the setting up of a maintenance board to collect and enforce maintenance payments would unlikely bring to either the maintenance payees or the taxpayers any significant benefits over and above those which could be achieved by improving the existing system.

Measures that have been pursued by the Administration to improve the system of maintenance include: (i) relaxing the requirement for the Court to make Attachment of Income Orders to make the issuance procedure more flexible; (ii) imposing interest or even surcharge against defaulting maintenance payers; (iii) working on the proposed legislative amendments on relaxing the service requirements for the judgment summons to be serviced personally on the maintenance payers to combat the problem of maintenance payers evading service of the judgment summons and empowering the Court to make an order for the arrest of the maintenance payer pending examination, an order prohibiting him/her from leaving Hong Kong, and an order that he/she be imprisoned until the resumption of the adjourned judgment summons hearing; (iv)

allowing designated government departments (that is, Immigration Department, Transport Department and Housing Department) to release the addresses of maintenance payers against whom legal actions will be taken to sue for arrears in maintenance free-of-charge upon the request from legal professionals who could provide sufficient information; and (v) working on publicity and education programmes to strengthen public understanding of the responsibilities of maintenance payers, rights of maintenance payees and services available to maintenance payees for the arrears of maintenance.

## Annex

<i>Categories of Domestic Conflict</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>	<i>2012 (Jan to Oct)</i>
Domestic Violence (Crime) Case	2 341	2 373	2 157	1 928	1 689
Domestic Violence (Miscellaneous) Case	4 937	1 954	1 181	892	718
Domestic Incident*	-	9 275	11 254	11 770	10 205
Total of Domestic Conflict Reports	7 278	13 602	14 592	14 590	12 612

Note:

\* Category of "Domestic Incident" was set up in January 2009.

### **Provision of Hillside Escalator Links and Elevator Systems**

15. **MR LEUNG YIU-CHUNG** (in Chinese): *President, in his 2008-2009 Policy Address, the former Chief Executive announced that an assessment system would be established for the provision of hillside escalator links and elevator systems (the Systems). Subsequently, the authorities gave scores under the assessment system to 18 proposals on the provision of the Systems in the territory and set their implementation priority. They also conducted feasibility studies in 2011 and 2012 on the top 10 proposals. In this connection, will the Government inform this Council:*



- (a) *whether the aforesaid feasibility studies have been completed; if so, of the progress in implementing those 10 proposals, including the time for submitting the funding proposals to this Council and constructing the Systems; and*
- (b) *how the authorities will handle the remaining eight proposals; whether they will allocate additional resources to handle those proposals expeditiously; if they will, of the timetable; if not, the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, the last term of the Government has established a set of comprehensive, objective and transparent scoring criteria for assessing proposals for the "provision of hillside escalator links and elevator systems" (hillside escalator system) to determine the priority for conducting feasibility studies for the proposed works projects. In 2010, the 20 proposals received at that time were assessed in accordance with the assessment system and the results were reported to the Legislative Council Panel on Transport on 26 February 2010. It was indicated at the same time that feasibility studies for the proposals ranked top 10 in the assessment would be conducted by batches, and that the remaining proposals ranked below them would be followed up after the smooth implementation of the top 10 proposals.

The two parts of Mr LEUNG Yiu-chung's question are replied together as follows:

- (a) and (b)

Regarding the proposals ranked top 10 in the assessment, preliminary technical feasibility studies for the top nine have been completed. The highest ranking proposal, "Pedestrian Link at Tsz Wan Shan", has been included in the Shatin to Central Link project and is under construction. In addition, the Highways Department (HyD) will gradually commence the investigation and preliminary design works for the proposals ranked second to ninth, with a view to taking them further forward. The preliminary technical feasibility study for the 10th ranking proposal, "Lift and Pedestrian

Walkway System between Lai King Hill Road and Lai Cho Road", is nearing completion.

For the construction of a hillside escalator system, after the proposed project has been confirmed technically feasible by the preliminary technical feasibility study, various tasks of pre-construction works have to be carried out, including ground investigation, preliminary design, consultation of district councils and relevant stakeholders, gazettal of the proposal and handling of objections (if any) under the Roads (Works, Use and Compensation) Ordinance, and also land acquisition (if needed), and so on. Thereafter, funding will have to be applied from the Finance Committee of the Legislative Council for carrying out detailed design and construction works.

Hillside escalator systems are relatively larger in scale and often involve considerations such as slopes, soil properties, diversion of underground utilities, and land resumption, and are considerably complex. Furthermore, project sites are often located in urban areas of high-density development, or even in the proximity of residential areas. Their alignments are sometimes somewhat controversial and require extensive public consultation. For issues that are highly controversial, in particular those regarding alignments and impact on residents and shops in the vicinity, more time would be needed for responding to and balancing demands of various stakeholders.

As regards funding application, the Government will have to review annually all public works under planning, taking into account factors including their progress, resources available, priority, urgency and benefits to the public, and so on, so as to determine their implementation order and timetable.

On the timetable for implementing the proposals ranked second to ninth, as all the tasks of pre-construction works involve complicated procedures, the actual time needed cannot be confirmed at this stage but the HyD will closely follow the tasks concerned.

Following the completion of the feasibility studies for the top 10 proposals, the HyD now has to devote more resources to the

concerned pre-construction works. Therefore, regarding the other eight lower-ranked proposals apart from those 10 (except for the "Escalator Link System at Yuet Wah Street" which is being taken forward through the opportunity brought about by the Kwun Tong Town Centre redevelopment project of the Urban Renewal Authority), we will follow up on them after the smooth implementation of the top 10 proposals. Nevertheless, in response to requests of the public, we will examine whether there is room to expedite the handling of these proposals.

### **Delay in Commissioning of a Footbridge Connecting Tsuen Wan and Tsuen Wan West MTR Stations**

16. **DR KWOK KA-KI** (in Chinese): *President, recently, I have received complaints from members of the public that the construction works of a footbridge connecting the Tsuen Wan and Tsuen Wan West MTR stations, which form a part of the extension works of the footbridge network in Tsuen Wan, have already been completed for several months but the footbridge is not yet commissioned. The Highways Department (Hyd) indicated in June 2012 that since cracks had been found in the footbridge during the acceptance tests, it was necessary to conduct detailed tests and implement remedial measures. In this connection, will the Government inform this Council:*

- (a) *of the original commissioning date of the footbridge when funding for the aforesaid works project was approved; the number of times for which the commissioning date has been deferred so far and the reasons for each deferral;*
- (b) *of the parts of the footbridge where cracks were found; the causes of the cracks; whether there were problems other than the cracks that caused the footbridge to have failed in the acceptance procedure; whether the cracks and other problems will affect the structural safety of the footbridge;*
- (c) *of the remedial works carried out for tackling the cracks and other problems; the time required and the costs for each item of the*

*remedial works as well as the progress in each month since the problems were found;*

- (d) of the expenditure on the footbridge works project as at the original commissioning date, and how this amount compares with the approved estimate of expenditure; the amounts of the various additional expenditure items arising from the delay in the works; whether such expenditure was paid by the contractor or out of the public coffers;*
- (e) whether it has assessed if the problems, including the cracks, which caused the footbridge to have failed in the acceptance procedure involve negligence on the part of the contractor; if the assessment result is in the affirmative, whether the contractor will be penalized or black-listed; of the numbers of inspections and examinations conducted by the authorities during the construction period, and whether any problems (including those on the work process, output and progress, and so on) had been found then; if so, of the number of times in which problems had been found and the problems involved; if not, why such problems were found only after the construction works had been completed, and whether it has assessed if the situation involved ineffective monitoring on the part of the government departments and officials concerned; if the assessment result is in the affirmative, of the government departments and officials involved; and*
- (f) of the latest commissioning date of the footbridge?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, my replies to the six parts of Dr KWOK Ka-ki's question are set out respectively as follows:

- (a) The footbridge project at Tai Ho Road, Tsuen Wan was originally scheduled for commissioning in January 2012 at the time of funding approval in January 2008. As the project is located at an old development area, trial pit results have revealed that there are many existing underground utilities at the construction site and that their distribution is far more complicated than what was anticipated

during the design stage. To avoid damaging such utilities, the contractor needs more time to conduct the relevant works, such as assisting the utilities companies to excavate trenches and conduct utility diversion works through various means. The completion date of the project has therefore been extended to May 2012.

Hairline cracks have been found at the welded joints of certain footbridge components during the acceptance tests conducted by the HyD in April 2012. Therefore, investigation and remedial works have to be conducted to ensure that the footbridge complies with specified safety standards and requirements before being opened for public use.

- (b) The cracks are located in the welded joints of certain columns and beams on the deck of the footbridge. Given that the joints in question have already passed the necessary tests during construction and no cracks have been found at that time, the cause of their formation is still under investigation. For prudence's sake, the HyD has conducted detailed tests on the entire footbridge to ensure its safety. The results show that the footbridge is structurally stable on the whole.
- (c) The HyD completed the detailed tests on the entire footbridge in July 2012. In order to open the footbridge for public use as early as possible, priority has been given to formulating the remedial plan for phase 1 of the footbridge (that is, the section near Sha Tsui Road Playground to Hau Tei Square). Remedial works have commenced since September 2012, which mainly include removing aluminium ceilings and glass fences, treating the cracks at the welded joints, and welding steel plates to the joints to strengthen them. The HyD is discussing the cost of the remedial works with the consultant and the contractor, on the premise that no additional costs will be borne by the Government for the incident.

At present, all welded joints of phase 1 have passed the necessary tests while the works for welding steel plates to the joints are nearing completion. The contractor will soon reinstall the aluminium ceilings and glass fences. Loading tests will be arranged by the HyD to ensure the quality of the remedial works before the

footbridge is opened for public use. The HyD expects that the works will be completed before the Lunar New Year. Relevant works on the remaining parts of the footbridge have also commenced, which are expected to be gradually opened to the public in the first and second quarters of 2013.

- (d) The original estimate for the footbridge project was \$169 million. As at the original commission date of May 2012, the actual expenditure was about \$150 million, similar to that originally estimated. As mentioned above, the HyD is discussing the cost of the remedial works with the consultant and the contractor, on the premise that no additional costs will be borne by the Government for the incident on the hairline cracks.
- (e) This project is designed by a HyD commissioned consultant, who is also responsible for monitoring the contractor's works. Preliminary investigation findings have revealed that there are deficiencies in some joints of the footbridge and hairline cracks are formed. However, the welded joints in question of the footbridge have already passed the necessary tests during construction and no cracks have been found at that time. The cause of problem is still under investigation. The HyD has requested the consultant to review the works and experts have also been engaged for an independent assessment. At present, we are endeavouring to finish the remedial works as soon as possible for early opening of the footbridge to the public.

The HyD always attaches great importance to the quality control of the project. During construction, the works procedures of the contractor have been closely monitored by the consultant's resident site staff, who will ensure compliance of specified safety standards and requirements. The consultant and the contractor are required to submit monthly works reports to the HyD for inspection. In addition, upon completion of the project, the HyD will conduct detailed acceptance tests again to ensure that the quality of the works complies with specified safety standards and requirements before opening the footbridge for public use.

- (f) As mentioned above, we understand the public's aspiration for using the footbridge as soon as possible. Therefore, the HyD has given priority to formulating and implementing the remedial plan for the section of the footbridge near Sha Tsui Road Playground to Hau Tei Square. The HyD hopes that the works will be completed before the Lunar New Year and that this section of the footbridge can be opened for public use as soon as possible.

Also, Sitting-out Area No. 3 at Hau Tei Square was opened to the public in November 2012. The lift and staircases there will be opened together with the abovementioned section of the footbridge before the Lunar New Year.

The remaining parts of the footbridge will be gradually opened to the public in the first and second quarters of 2013.

### **Problems of Long Bin Interim Housing Estate in Yuen Long**

17. **MR ALBERT HO** (in Chinese): *President, I have received quite a number of complaints about Long Bin Interim Housing Estate (Long Bin IH) in Yuen Long. For example, an elderly woman approaching 80 years' old and her daughter with disabilities have been allocated a unit in Long Bin IH of a size which can only accommodate a double-deck bunk bed, but neither of them is able to climb up to the upper deck; some residents, who had been arranged to live in Long Bin IH when their former public rental housing (PRH) units were recovered by the Housing Department (HD) many years ago on grounds of rent in arrears, have not yet been reallocated PRH units since then; some residents in Long Bin IH have frequently and unreasonably caused nuisances to other residents, which have given rise to a number of conflicts resulting in some residents reporting to the police for assistance for more than 100 times within nine months; the ceilings of all units in Long Bin IH are made of fiberglass material, which often spalls off and causes skin allergy to some residents; and there are serious problems of mosquitoes and bed bugs. In this connection, will the Government inform this Council:*

- (a) *of the number of years for which Long Bin IH has been completed; the number of rental units provided by Long Bin IH at present, the*

*respective numbers of units allocated and vacant among these units, and the longest period of the units being left vacant;*

- (b) whether the authorities will, on compassionate grounds, allocate a larger unit to the aforesaid household which comprises an elderly person and a person with disabilities;*
- (c) of the average waiting time at present for the households in Long Bin IH for allocation of PRH units, and the longest waiting time among such households; whether the authorities will exercise discretion to reallocate PRH units to households with arrears of rents many years ago;*
- (d) of the measures taken by the authorities to protect residents of Long Bin IH from nuisances unreasonably caused by individual residents; of the measures taken by the authorities to address the problems of mosquitoes and bed bugs in Long Bin IH;*
- (e) of the community services and facilities provided in Long Bin IH at present; whether the authorities have plans to increase such services and facilities;*
- (f) whether the authorities will consider replacing the ceiling materials of all units in Long Bin IH;*
- (g) given the comments that it is an unreasonable standard to regard a household in Interim Housing (IH) to be overcrowded only if it has a living space of less than 3.4 sq m per person on average, whether the authorities will immediately review this standard; and*
- (h) whether the authorities have plans to redevelop Long Bin IH into a PRH estate and, if necessary, assign one of the concrete buildings for use as IH; if they have, when they will proceed with the plans; if not, of the reasons for that?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, it is the Government's policy to ensure that no one will be rendered homeless as a result of natural disasters, fire, emergencies, as well as government's clearance



and enforcement actions. However, should anyone be in need of temporary accommodation, they can, through the referral of the Buildings Department or the Lands Department, be provided with temporary accommodation in the Po Tin Transit Centre at Tuen Mun. If they have lived in the transit centre for three months and passed the "homeless" test, as well as fulfilling the eligibility criteria for PRH, they can be rehoused to IH while awaiting PRH allocation through the Waiting List (WL) system.

The Housing Authority (HA)'s Shek Lei IH, Long Bin IH and Po Tin IH provide a total of about 4 600 flats. Although IH is a transient type of accommodation for those in need, the HD would provide residents with necessary ancillary, transport and social facilities.

Regarding the case of the "elderly woman and her daughter with disabilities" mentioned in the preamble of the question, the HD has been following up and offering assistance as necessary. In fact, their application for PRH was approved late last year and they will soon be offered a PRH unit.

As for the issue of nuisance regarding some residents living in Long Bin IH being frequently disturbed by others, resulting in several confrontations and reporting to the police for over 100 times within nine months, information provided by the police revealed that from January 2012 to end of September 2012, there were over 100 cases reported of which most of them were categorized as family disputes and confrontations/quarrels among residents. These cases mainly involved only a few residents. The remaining small number of cases were categorized as theft, common assault and seeking assistance from the police, and so on. During the year of 2012, no residents of Long Bin IH were arrested or prosecuted for causing nuisance to others in the IH.

Our response to the eight-part question raised by Mr Albert HO is as follows:

- (a) The Long Bin IH was completed in 1999 and it is 13 years old. It provides a total of 840 units. As at end-November 2012, the number of occupied units stood at 570 while offer letters were issued in respect of another 14 units, and 256 units remained vacant. Among them, the unit that stood vacant for the longest time had been left so since 2003.

- (b) Should there be family applicants for admission to IH with members who are confined to indoor use of wheelchair on a non-temporary basis, require renal dialysis at home, or are suffering from hyperactivity disorder or quadriplegic, the HD will count the families as having one extra member when allocating flats to them on production of valid medical documentary proof. If the elderly can provide medical certificate to prove their need for the allocation of flats of a larger size, the HD will also take this into account subject to the availability of resources.

If the residents do not raise a special allocation request regarding the above circumstances before admission to IH, or their health conditions changed after admission to the flats, they could apply to their respective estate offices for transfer to larger flats on medical grounds. The HD would consider the cases on individual merits.

- (c) Households of IH have to apply through the WL for admission to PRH. The time required for PRH allocation depends on the circumstances of individual cases. Generally speaking, the reasons for a longer staying time in IH include the family has yet to fulfil the seven-year residence rule; the rent in arrears of the former PRH flat remains outstanding; the recommended special requirements for allocation have narrowed down the choice of districts, or the applicant is a young non-elderly singleton under the Quota and Point System. The HD has not compiled any statistics on the average waiting time for households of Long Bin IH to be allocated a PRH flat.

Separately, payment of rent is the fundamental responsibility of PRH tenants. For domestic tenancies/occupation licences terminated due to rent/licence fee-in-arrears, the HD will freeze the PRH applications of the tenants/licensees concerned for two years. The HD will take enforcement action against any rent defaulter to safeguard rational allocation of public housing resources. The concerned tenant/licencee has to clear all the outstanding rent/licence fee before a PRH unit would be offered to him/her. Furthermore, if any ex-tenant/licencee has imminent housing need on medical/social ground, they may seek assistance from the Social Welfare Department for Compassionate Rehousing or other assistance.

- (d) To provide a peaceful and quiet living environment, the HD has been striving to take the following measures to improve the living condition of Long Bin IH:
- (i) Security guards would perform daily patrols on each block and public area. The HD also installed closed-circuit television system (CCTV) at the entrance of the estate in mid-2011, and subsequently installed CCTV in other areas in October 2012 to widen surveillance and improve security;
  - (ii) Since early 2012, the HD has strengthened the communication and co-operation with the police. Regular meetings between the HD and the police have been held to enhance the security of the estate; the police also increased the frequency of patrols of the estate, and arranged a seminar and home visits for the residents to strengthen co-operation with the public and promote crime prevention; and
  - (iii) For noise nuisance cases, if misconduct is substantiated under the Marking Scheme for Estate Management Enforcement in Public Housing Estates or according to the terms of occupation licences, the estate office will give advice/warnings, allot demerit point or even terminate the occupation licences concerned. According to our records, complaints about noise nuisance in 2012 were smoothly resolved after advice was given to the households concerned.

Furthermore, the HD has spared no efforts in mosquito control in order to prevent mosquito nuisance arising from the vicinity of Long Bin IH. Apart from spraying mosquito oil on a regular basis and removing stagnant water to eliminate the breeding of mosquitoes, an anti-mosquito machine was installed in early 2012 to enhance the preventive measures. On bedbugs, no case has been reported in 2012. Nevertheless, the estate office has posted up notices to promote the awareness of personal hygiene and maintaining clean environment.

- (e) There are two non-government organizations in Long Bin IH, which provide social services including home visits, employment assistance, counselling on family problems/personal emotional problems, domestic support services to the elderly and homework

guidance to the youth. On recreational facilities, Long Bin IH currently has a badminton court, a basketball court and a children's playground. To improve the quality of life for the elderly, the HD has planned to install elderly fitness facilities in the estate which are scheduled for completion by end-February 2013.

- (f) Approved fabric glass materials with fireproof, heat insulation and sound insulation properties, are used for the ceilings of flats in Long Bin IH, which have been widely used in buildings in Hong Kong. Under normal circumstances, such kind of materials should not spall off easily or cause any health hazard to human being. There was no case of causing skin allergy by the spalls of this material in Long Bin IH in the past. The HD would arrange necessary repairs and maintenances for Long Bin IH, and review the flat conditions to ensure safety of residents.
- (g) As mentioned above, IH is a transient type of accommodation offered to those who become homeless because of natural disasters, fire, clearance operations, emergencies, other government actions and so forth, but were not eligible for immediate rehousing to PRH. As such, IH is different from the general PRH designed for permanent accommodation in aspect of living area, design and housing arrangements. The allocation standard of IH is 5.5 sq m internal floor area (IFA) per person. Given IH is a transient accommodation, applicants must at the same time register on the WL to apply for PRH to meet their long-term housing needs when they are admitted to IH.

According to the prevailing arrangements, if the households' family circumstances changed after they were admitted to Long Bin IH with IFA of less than 3.4 sq m per person, they can apply for transfer to a larger unit. At present, the HA has no plan to revise the overcrowding relief standard of IH.

- (h) The site is currently zoned "Open Space" on the Approved Tong Yan San Tsuen Outline Zoning Plan No. S/YL-TYST/10. The Government will explore the possibility of rezoning the site to "Residential" use. Should it be possible, we will consider developing the site for public housing.

## Management of Taking of Sick Leave by Government Employees

18. **DR LAU WONG-FAT** (in Chinese): *President, it has been reported that a contract employee of the Hongkong Post had been granted a total of more than 600 days of sick leave within two years for work injury. However, that employee was subsequently found to have used forged medical certificates (commonly known as "sick leave certificates"). Regarding the management of the taking of sick leave by government employees (including civil servants and non-civil service contract staff), will the Government inform this Council:*

- (a) *of the number of government employees who had taken sick leave cumulatively for over two months in any 12-month period in the past five years (with a breakdown by government department);*
- (b) *whether the authorities have put in place any mechanism for handing over sick leave cases of government employees to departments other than the one to which the employees belong, for spot checking any suspicious cases; and*
- (c) *whether the Government will review the existing system for government employees taking sick leave so as to prevent any abuse of sick leave?*

**SECRETARY FOR THE CIVIL SERVICE** (in Chinese): President,

- (a) According to the data collected by the Civil Service Bureau, the number of civil servants who have taken a total of 30 days<sup>(1)</sup> of sick leave<sup>(2)</sup> or more (including both sick leave related to injury on duty (IOD)/occupational disease (OD) and sick leave not related to IOD/OD) in each calendar year in the past five years from 2007 to 2011 is shown in the Annex. The sick leave records of non-civil service contract (NCSC) staff are managed and kept by individual

(1) The Civil Service Bureau does not collect statistics from B/Ds on the number of government employees who have taken sick leave for more than two months.

(2) Sick leave is counted on a calendar day basis. Any intervening Sundays, gazetted general holidays and any Saturday mornings/afternoons on which an officer is not due to attend for duty, are also counted as sick leave.

bureaux/departments (B/Ds). The Civil Service Bureau does not collect sick leave information of NCSC staff from B/Ds.

- (b) There are established mechanism and measures for managing the sick leave of civil servants and preventing abuse of sick leave. The mechanism seeks to strike a balance between ensuring the provision of rest to officers who have fallen sick on the one hand, and the effective management of sick leave on the other. For effective management of sick leave, the Civil Service Regulations have set out the arrangements for the granting of sick leave and measures to prevent abuse of sick leave. The Civil Service Bureau has also issued a set of guidelines on sick leave management to all B/Ds, and reminded them of the need to pay attention to frequent sick leave takers and to initiate early monitoring action. Where there are dubious cases of sick leave not related to IOD/OD, the bureau/departmental management will consider taking appropriate follow-up action under the mechanism, such as to interview the concerned officers to understand their reasons for taking frequent sick leave. Where there are signs suggesting that an officer might have abused sick leave, the department may require the officer to attend a particular Government or Hospital Authority (HA) clinic or attend before a Government or HA medical officer, and produce medical certificates issued by the particular Government or HA clinic or medical officer. Otherwise, the department may refuse to grant sick leave to the officer. Where necessary, the department may require the officer to be examined by a Medical Board to be appointed by HA, and on the advice of the Medical Board decide whether or not to allow the officer to continue to be granted sick leave.

Individual B/Ds have put in place mechanisms in managing and monitoring the sick leave of NCSC staff. B/Ds have also drawn up measures to prevent abuse of sick leave catering to their own operational circumstances and needs by making reference to the mechanism of monitoring sick leave of civil servants.

For sick leave resulting from IOD/OD, the department will first ascertain whether the case concerned is an IOD/OD case. The

officer concerned is required to produce a sick leave certificate issued by a registered medical practitioner or a registered Chinese medicine practitioner to support that the sick leave is related to IOD/OD. If the department has doubts on whether the sick leave applied for is related to IOD/OD, it may request HA to appoint an independent Medical Board to consider the case.

All in all, no matter the sick leave is related to IOD/OD or not, B/Ds may refer the suspected case to a Medical Board for assessment under the mechanism. For suspected fraudulent case, the department may consider referring the evidence collected to the police or other law-enforcement agencies for action.

- (c) The Civil Service Bureau reviews the sick leave data of civil servants submitted by B/Ds on a regular basis, including the average sick leave days taken by civil servants, the number of officers involved, the number of prolonged and suspected abuse of sick leave cases, and so on, to keep in view the sick leave situation in individual B/Ds as well as the whole civil service. For individual B/Ds with average sick leave days taken by their officers higher than the overall figure across the service or having more cases of prolonged sick leave, the management of those B/Ds will be asked to review and report to the Civil Service Bureau the reasons leading to such situation. The reviews may also cover their internal sick leave management arrangements and any improvement action, and so on, for the Civil Service Bureau to gauge the situation and assess the effectiveness of the prevailing sick leave management measures. The Civil Service Bureau will review the sick leave management measures from time to time with a view to facilitating B/Ds to effectively administer sick leave rules and taking appropriate follow-up action in cases of suspected abuse of sick leave.

Similarly, B/Ds will duly review the sick leave situation of their NCSC staff and their internal sick leave management arrangements. B/Ds will take appropriate follow-up action in cases of suspected abuse of sick leave by NCSC staff.

Number of civil servants who had taken over 30 days<sup>(1)</sup> of sick leave  
in a year from 2007 to 2011

<i>Calendar Year</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>	<i>2010</i>	<i>2011</i>
(1) Total number of officers who had taken over 30 days of sick leave from the 10 departments with the largest number of such officers	3 296 <sup>(2)</sup>	3 339 <sup>(3)</sup>	3 521 <sup>(4)</sup>	3 730 <sup>(4)</sup>	3 667 <sup>(4)</sup>
(2) Total number of officers who had taken over 30 days of sick leave from other B/Ds	1 344	1 288	1 413	1 455	1 484
Grand total of officers who had taken over 30 days of sick leave (1)+(2) (and percentage of such officers against all civil servants)	4 640 (3.08%)	4 627 (3.04%)	4 934 (3.21%)	5 185 (3.36%)	5 151 (3.29%)

## Notes:

- (1) The Civil Service Bureau does not collect statistics from B/Ds regarding the number of government employees who have taken sick leave for over two months.
- (2) The 10 departments with the largest number of officers who had taken over 30 days of sick leave in 2007 are Hong Kong Police Force, Food and Environmental Hygiene Department, Department of Health (including civil servants in the Hospital Authority), Correctional Services Department, Fire Services Department, Leisure and Cultural Services Department, Hongkong Post, Immigration Department, Housing Department and Social Welfare Department.
- (3) The 10 departments with the largest number of officers who had taken over 30 days of sick leave in 2008 are Hong Kong Police Force, Food and Environmental Hygiene Department, Department of Health (including civil servants in the Hospital Authority), Correctional Services Department, Fire Services Department, Leisure and Cultural Services Department, Hongkong Post, Immigration Department, Housing Department and Customs and Excise Department.
- (4) The 10 departments with the largest number of officers who had taken over 30 days of sick leave in each calendar year from 2009 to 2011 are Hong Kong Police Force, Food and Environmental Hygiene Department, Department of Health (including civil servants in the Hospital Authority), Correctional Services Department, Fire Services Department, Leisure and Cultural Services Department, Hongkong Post, Immigration Department, Social Welfare Department and Customs and Excise Department.



**Appointment of Judicial Assistants by Judiciary**

19. **MR DENNIS KWOK:** *President, in order to alleviate and lessen the heavy workload faced by judges and to provide more training and work opportunities for young lawyers, a programme (the Programme) has been implemented whereby young lawyers who have completed pupillage or solicitors' traineeships may be appointed to work as Judicial Assistants to provide assistance to judges in researching points of law, analysing and writing memoranda on appeals and applications, preparing memoranda on legal points, as well as assisting in other work of the Court. In this connection, will the Government inform this Council if it knows:*

- (a) *the average total number of posts provided under the Programme each year since its implementation, and the respective numbers of applications received and appointments made under the Programme each year;*
- (b) *whether the Judiciary has formally reviewed the effectiveness of the Programme, such as examining what improvements could be made to the Programme to enhance the level and quality of legal assistance provided to individual judges, and assessing whether the Programme has increased the efficiency of the Court in handling cases, helped in relieving the workload of judges, and shortened the waiting time for court cases; if it has, of the outcome and the details of the review; if not, the reasons for that; and*
- (c) *whether the Judiciary will consider expanding the scope of the Programme so as to provide better support for individual judges at all levels, and to provide better training and work opportunities for young lawyers, by assigning them to work specifically for individual judges for a given term similar to the judicial clerkship system adopted in the United States and other common law jurisdictions; if it will, of the details of the plan; if not, the reasons for that?*

**CHIEF SECRETARY FOR ADMINISTRATION:** President, the Administration has consulted the Judiciary on the questions raised. The Judiciary has provided the following information:

"In 2010, the Judiciary launched the pilot scheme on Judicial Assistants (the Scheme). The objectives of the Scheme are:

- (a) To provide assistance to appellate judges in the Court of Final Appeal and the Court of Appeal of the High Court in conducting research on law points and assisting in other work of the Court; and
- (b) To enable fresh and bright law graduates who are about to embark upon careers in the legal profession to acquire an insight into the appellate process and to benefit from working with appellate judges, which will be conducive to the development of the legal profession.

Having regard to the operational needs of the appellate judges, it is anticipated that up to six Judicial Assistants may be recruited each year. However, the Judiciary also takes the view that for the Scheme to operate effectively, only fresh and bright law graduates who are found suitable for the job would be recruited.

Having regard to the objectives of the Scheme, it is intended that the Judicial Assistants will normally be recruited for a single one-year term and they will move on to other stages of their legal careers afterwards. Judicial Assistants are therefore engaged on non-civil service contract terms for a period of 12 months. No established posts are required. In the past three years (from 2010 to 2012), the number of applications which had met all the basic requirements<sup>(1)</sup> for the position were 34, 12 and 28 respectively. The number of suitable Judicial Assistants appointed were five, three and three respectively.

Judicial Assistants are assigned to work for the appellate judges. They are tasked with research on law points, analysing and writing memoranda on appeals and applications, drafting memoranda on legal points and assisting with other work of the appellate courts. Arrangements may also be made for individual Judicial Assistants to provide direct support to the appellate judges.

The Chief Justice attaches great importance to the Scheme and has personally examined, in consultation with the appellate judges, the effectiveness

(1) The basic requirements are (i) in possession of a Law Degree with Second Class Honours in the upper division or above, or equivalent; (ii) in possession of the Postgraduate Certificate in Laws; (iii) completion of pupillage or solicitors' traineeship (or will have completed such by summer of the year concerned); and (iv) permanent resident of HKSAR.

of the Scheme. The outcome of the review is that the objectives of the Scheme have been met and that the Scheme should continue to operate on its existing terms in the foreseeable future. At present, the Judiciary has no plan to revise the objectives and the scope of the Scheme as it is considered that such Scheme works best in the appellate courts' setting. The Judiciary, however, will keep the Scheme under review."

### **Aspiration of Tai Wai Residents for Provision of a Footbridge**

20. **MS EMILY LAU** (in Chinese): *President, some residents of Ka Tin Court in Tai Wai have sought my assistance, saying that they had proposed to the authorities the construction of a footbridge connecting Hin Keng Shopping Centre with the Hin Keng Station of the MTR Shatin to Central Link (the SCL), which is under construction, so as to facilitate access by the residents, but the proposal was rejected. In this connection, will the executive authorities inform this Council:*

- (a) *when the aforesaid proposal was rejected;*
- (b) *of the reasons for the rejection;*
- (c) *whether they understand these residents' aspiration and how they will respond to such aspiration; and*
- (d) *whether they will reconsider these residents' aspiration for the provision of a footbridge?*

**SECRETARY FOR TRANSPORT AND HOUSING** (in Chinese): President, while we understand the residents' aspiration for a footbridge linking the railway station to facilitate their access to rail services, the Administration have to consider a number of factors when assessing whether such a footbridge should be provided. These include traffic conditions, topographic conditions, existing pedestrian network and facilities, utilization rate, extent of nuisance to local residents, technical feasibility and cost-effectiveness.

My reply to the four parts of the question from Ms Emily LAU is as follows:

(a) and (b)

When planning the SCL, the relevant departments have examined the arrangements of pedestrian access between the proposed Hin Keng Station and its neighbourhood. The section of Che Kung Miu Road outside Hin Keng Station is not a trunk road and its traffic flow is not heavy. By widening the pedestrian crossings and modifying the traffic signals concerned, there will be sufficient capacity for both pedestrian and vehicular flows after the commissioning of the station. Rail passengers can cross Che Kung Miu Road safely and conveniently via these at-grade crossings when accessing Hin Keng Station.

Following the gazettal of the SCL under the Railways Ordinance in November 2010, we received the objection raised by the Incorporated Owners of Ka Tin Court as well as their request for a footbridge connecting the proposed Hin Keng Station and the nearby Hin Keng Shopping Centre for convenient access to the SCL service. Subsequently, we met them to collect their views and responded to them in writing explaining why their proposal could not be accepted.

As the Incorporated Owners of Ka Tin Court maintained their original objection, their views together with all other unresolved objections were submitted to the Chief Executive in Council for consideration on 27 March 2012. The Chief Executive in Council authorized the implementation of the SCL railway scheme under the Railways Ordinance; in which the footbridge proposal was not incorporated.

(c) and (d)

We understand the request from the residents of Ka Tin Court. This issue has also been discussed by the Sha Tin District Council (STDC) recently. In response to the request of the STDC, we are reviewing the latest local development, the relevant traffic data, and connectivity arrangements for the station and will report the findings to the STDC in due course.

**BILLS****First Reading of Bills**

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

**STAMP DUTY (AMENDMENT) BILL 2012****INLAND REVENUE AND STAMP DUTY LEGISLATION  
(ALTERNATIVE BOND SCHEMES) (AMENDMENT) BILL 2012**

**CLERK** (in Cantonese): Stamp Duty (Amendment) Bill 2012

Inland Revenue and Stamp Duty Legislation  
(Alternative Bond Schemes) (Amendment) Bill 2012.

*Bills read the First time and ordered to be set down for Second Reading pursuant to Rule 53(3) of the Rules of Procedure.*

**Second Reading of Bills**

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

**STAMP DUTY (AMENDMENT) BILL 2012**

**SECRETARY FOR TRANSPORT AND HOUSING** (in Cantonese): President, I move the Second Reading of the Stamp Duty (Amendment) Bill 2012 (the Bill) to implement the demand side management measures which are related to stamp duties to address the overheated residential property market, as approved by the Chief Executive-in-Council on 26 October 2012 and announced by the Financial Secretary on the same day.

The Bill aims to amend the Stamp Duty Ordinance (Cap. 117) to implement two measures as follows.

The first is to enhance the Special Stamp Duty (SSD). We propose to raise the rates of SSD and extend the holding period of residential properties from 24 months to 36 months. After adjustment, the rate of SSD will be 20% of the amount or value of the consideration if the relevant property has been held for six months or less before resale; 15% if the holding period of the property is between six months and 12 months; 10% if the holding period is between 12 months and 36 months.

The second is to introduce a Buyer's Stamp Duty (BSD) on residential properties acquired by any person (including companies) except a Hong Kong permanent resident. The BSD is to be charged on all residential properties at a flat rate of 15% of the amount or value of the consideration on top of the existing stamp duty and the SSD, if applicable.

We envisage that the adjusted SSD will dampen the incentive of short-term investors to purchase properties, while the BSD will have the same effect on non-Hong Kong permanent residents and companies, hence according priority to addressing the home ownership needs of Hong Kong permanent residents. These two measures are introduced in response to the continuously exuberant state in the residential property market, arising from a tight supply of residential flats, extremely low interest rates and the influx of capital from overseas. As a matter of fact, the property residential market is out of step with the real economy, property prices have risen beyond the affordability of the general public and the risk of a property bubble has increased substantially. The measures aim to forestall a further build up of exuberance in the property market, safeguard the overall macroeconomic and financial stability of Hong Kong and ensure the healthy and stable development of the property market and sustainable development in Hong Kong; as well as accord priority to meeting the home ownership needs of Hong Kong permanent residents under the prevailing market situation.

In drafting the Bill, we have taken into account various views expressed in the community, including those received from the Legislative Council Panel on Housing and Panel on Financial Affairs at their joint meeting on 2 November 2012, and during the meetings and briefings we arranged for relevant stakeholders, including the Consuls-General, The Law Society of Hong Kong, The Real Estate Developers Association of Hong Kong, the Estate Agents

Authority, the estate agency trade, local and international chambers of commerce, and associations of small and medium enterprises.

The Government understands that everyone is concerned about the application of the BSD and our policy intention is to accord priority to meeting the home ownership needs of Hong Kong permanent residents under the current tight supply of flats, influx of capital and extremely low interest rates through dampening the incentive of non-Hong Kong permanent residents and companies to purchase properties. Therefore, we propose to require all non-Hong Kong permanent residents (including companies) to pay the BSD when purchasing residential properties. These are rather harsh measures but as an accountable government, we need to adopt extraordinary measures in respond to exceptional circumstances to ensure the healthy and stable development of the property market.

President, we notice there are suggestions that under the above policy intention, companies whose shareholders are all Hong Kong permanent residents should be exempted from the BSD. However, after thorough consideration and taking into account various views, we consider that this suggestion is not viable. First of all, in law, a company is an entity independent from its shareholders. Under the legal framework of Hong Kong, we have all along distinguished companies by whether they are established locally or overseas, instead of making reference to the Hong Kong permanent resident status of shareholders. In fact, according to the Companies Ordinance (Cap. 32), companies can be classified as companies incorporated locally or overseas and the shareholders of both kinds of companies can be Hong Kong permanent residents or non-Hong Kong permanent residents. Under the law, a company and its shareholders are independent entities and they have their respective rights and obligations. In general, shareholders are not liable for the debts of a limited company; the properties, debts, rights and obligations of the company and its shareholders can be clearly distinguished; the acts of the company is not equal to the acts of the shareholders; at the same time, the assets and debts of the company are not the assets and debts of the shareholders. That is the basic principles of company law. Moreover, the resident status of the shareholders should not have any impact on the company's tax payment liabilities. To determine whether a company can be exempted from BSD by the Hong Kong permanent resident status of its shareholders will confuse the important basic legal principle that a company is an entity independent from its shareholders.

Further, some have suggested putting in place a self-declaration mechanism to confirm the Hong Kong permanent resident status of the shareholders of a company. We think that from the perspective of the practical operation, this may create a big loophole. First, there could be a huge number of shareholders involved and some of the shareholders themselves could be bodies corporate incorporated locally or overseas. Such an arrangement would call into question how many tiers of company structure should be captured by the suggested self-declaration mechanism for the purpose of verifying the identity of the ultimate shareholders. Besides, shareholders of a company incorporated overseas are not required to declare their Hong Kong permanent resident status to the Stamp Office or the Companies Registry, hence giving great difficulties for the authorities to trace the relevant shareholders or transfer of shares.

Moreover, the structure of a company can be extremely complicated and take various forms in order to achieve different controlling objectives. The proposed self-declaration mechanism can hardly prevent the transfer of interests in residential properties by shareholders who are Hong Kong permanent residents to those who are not to evade the payment of BSD, by means of nomination, declaration of trust, authorization, allotment of new shares, and issuance of new class of shares, and so on. After the transfer of ownership through the above means, although the original shareholders are still shareholders of the company on the surface, the control of the company has been transferred to others.

On the whole, it is extremely difficult to put in place a mechanism that can effectively cover all tax avoidance schemes and plug all the loopholes identified. Besides, it is rather simple and costs very little to set up a company or change its shareholders in Hong Kong and the potential tax payment involved may also be trivial, which in turn significantly raises the risk of the evasion of the BSD. The monitoring work required for the self-declaration mechanism would be extremely complicated, burdensome to the potential duty payers and yet still be ineffective. Therefore, we think that it is not feasible to exempt the companies whose shareholders are all Hong Kong permanent residents.

Under the Bill, if a Hong Kong permanent resident purchases a residential property jointly with a non-Hong Kong permanent resident who is closely related to him, such as his spouse, parent, child, brother or sister, they need not pay the BSD. The BSD is not applicable to wholly-owned enterprises operated by Hong Kong permanent residents. Regarding the other exemption arrangements of the



BSD, we have basically made reference to the existing exemption arrangements of the SSD Duty and suggest introducing similar ones to the BSD. For example, a non-Hong Kong permanent resident transferee of a residential property who is closely related to the transferor or a charitable institution that enjoys the tax exemption status under the Inland Revenue Ordinance (Cap. 112) is given a residential property is not required to pay the BSD.

President, there are concerns that the BSD would hinder redevelopment and affect the housing supply. Our policy intention is that the BSD should not hinder redevelopment whether the residential property acquired is for redevelopment into a residential or a non-residential property. After carefully considering the practical operation of development projects and taking into account the views collected, we propose to put in place a refund mechanism so that acquisition of residential properties for the construction of immovable properties which are completed within six years will be refunded the BSD paid. For redevelopment cases that are not subject to lease modification, the "six-year period" will start when the relevant developer has become the owner of the entire lot of the redevelopment concerned. The developer will be considered as having completed the construction if it has obtained, within six years thereafter, the Occupation Permit (OP) in respect of the redevelopment, or the first OP if there is more than one for the entire redevelopment. In the scenario where lease modification is required for redevelopment after the developer has acquired the lot(s), the counting of this "six-year period" commences from the completion of the first of such lease modification of the lot(s), that is, the date of the lease modification document.

Overall speaking, this mechanism has taken into account the various views put forward by the industry. For example, in response to the industry's view that ownership acquisition takes time, we propose that the counting of the "six-year period" commences after all the ownership has been acquired; and if the redevelopment project involves more than one lot, the counting of the period commences after all the ownership of the last lot has been acquired. To increase the flexibility of the redevelopment projects, the developer will be considered as meeting the requirement for the refund of BSD if it has obtained, within the "six-year period", the first OP. The "six-year period" as proposed is consistent with that required for redevelopment under the Land (Compulsory Sale for Redevelopment) Ordinance. Besides, we have also made reference to the Building Covenant contained in some leases which requires the relevant

development project to be completed on or before a specified date and the period allowed is four to six years in general. On the whole, taking into account the above considerations, the "six-year period" requirement provided in the Bill is appropriate which can effectively tie in with the practical operation of the redevelopment and at the same time very flexible.

There are also suggestions that the purchase of luxury properties by non-Hong Kong permanent residents will not affect the home ownership needs of ordinary people in Hong Kong and hence for residential flats whose prices are over a certain amount, say \$30 million, should be exempted from the BSD. We do not agree to this suggestion on the grounds that, first, the signs of exuberance are present in all tiers of the property market rather than a particular residential property market. As a matter of fact, the prices of large residential flats, with an area of 100 sq m and above, and small to medium residential flats, with a saleable area of less than 100 sq m, in November 2012 showed an increase of 83% and 116% respectively from the trough in 2008. Compared to the peak in 1997, the prices of large residential flats have substantially risen 35% and the prices of small to medium flats have also risen 30%. Besides, to accord priority to meeting the housing and home ownership needs of Hong Kong permanent residents, we believe that it is necessary to use the unequivocal definition of Hong Kong permanent residents to decide who to pay the BSD. More importantly, if the luxury property market is exempted, it will encourage developers to develop luxury properties which will further affect the supply of flats in the general market.

President, given the price-sensitive nature of the property market, it is necessary for the proposed new measures to come into immediate effect once announced. This is to ensure that no one can take advantage of the new measures between the announcement and the enactment of the relevant Bill. Hence, it is proposed in the Bill that the measures shall take effect on 27 October 2012, the day immediately following the announcement on 26 October 2012. The Inland Revenue Department will record all the residential property transactions between 27 October 2012 and the date on which the Bill is enacted. Demand notes for the SSD underpaid/ BSD will be issued after the enactment of the Bill.

There is no doubt that the fundamental issue to tackle in addressing the current housing situation is land supply. The Government will continue with its

efforts to increase land supply to tackle the problem at source. However, under the current exceptional circumstances, we need to introduce exceptional measures to manage the housing demand, with the aim of preventing the risk of a property bubble from hampering the stability of the macro-economy and the financial system, and eventually affecting people's livelihood. Property prices are influenced by many evolving factors, including the external economic environment. We will continue to monitor closely the development of the property market and make appropriate adjustments as and when necessary. To respond more speedily to the development in the property market, we plan to introduce a mechanism in the Bill to allow the rates of SSD and BSD to be revised by way of subsidiary legislation subject to negative vetting to ensure timely adjustments to be made to those rates promptly as necessary.

While we understand that the proposed demand-side management measures may inevitably create certain inconvenience to some parties, as an accountable Government, we have to act in the interest of all, and strive to safeguard the livelihood of the general public and Hong Kong's financial stability by preventing the risk of a property bubble from jeopardizing the well-being of the community. Some worry whether these measures will undermine Hong Kong's status as one of the freest economies in the world. In respond to that I would like to point out that the accomplishments of Hong Kong as a free economy are based on a host of factors relating to its economic system and policies, including the protection of private properties, market freedom, free flow of information and capital and the like. Hong Kong has been rated as the freest economy in the world by the Heritage Foundation of the United States for 18 consecutive years. In fact, other high-ranking regions, such as Singapore, have also put in place mechanism to limit the land or property ownership of foreigners. Besides, being a small and externally-oriented economy and under the present economic globalization, Hong Kong is highly susceptible to external factors such as the monetary easing measures currently adopted by major economies, and it is necessary for us to adopt the measures as proposed above. When the demand-supply situation of the property market has regained its balance, we will consider withdrawing these measures.

President, I now submit the Bill for the scrutiny of the Legislative Council and I hope that the Legislative Council will pass it as soon as possible to give legal effect to the relevant stamp duty as proposed. In the course of scrutiny, we will endeavour to facilitate the work of the Bills Committee by providing further

information and response to Members' views and issues of concern regarding the Bill.

President, I so submit.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Stamp Duty (Amendment) Bill 2012 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

## **INLAND REVENUE AND STAMP DUTY LEGISLATION (ALTERNATIVE BOND SCHEMES) (AMENDMENT) BILL 2012**

**SECRETARY FOR FINANCIAL SERVICES AND THE TREASURY** (in Cantonese): President, I move the Second Reading of the Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Bill 2012 (the Bill).

The Bill principally seeks to amend the Inland Revenue Ordinance (IRO) and Stamp Duty Ordinance (SDO) to provide a comparable taxation framework for some common types of Islamic bonds (sukuk), *vis-à-vis* conventional bonds, with a view to promoting the development of a sukuk market in Hong Kong.

Islamic finance is amongst the fastest growing segments in the international financial system, with a presence in both Muslim and non-Muslim communities. According to information available, globally speaking, Islamic finance assets have expanded from US\$150 billion in the mid-1990s to US\$1.3 trillion in 2011.

Sukuk are one of the most prominent instruments used in Islamic finance, and have been commonly issued by debt issuers for raising funds in some domestic and international capital markets. The first half of 2012 saw an impressive 40% year-on-year growth for global sukuk issuances, while the global volume of outstanding sukuk is estimated to have exceeded US\$220 billion by the end of last year.

Hong Kong has developed a highly liquid capital market with a large presence of well-qualified financial intermediaries, a well-established market infrastructure, a sound legal system, and a transparent regulatory framework. Given our role as a leading international financial centre and China's global financial centre, Hong Kong has the advantage of matching the needs of fund raisers and investors from China, the Middle East, and other parts of the world interested in Islamic financial products. Hence, we are well placed to promote a sukuk market in Hong Kong as a first step in developing Islamic finance.

Sukuk have more complex product structures than their conventional bond counterparts. That is to say, sukuk are usually structured with special purpose vehicles and multiple asset transfers. Sukuk issuances may therefore attract additional profits or property tax exposures, or stamp duty charges. We observe that major jurisdictions such as Malaysia, the United Kingdom, Singapore, Japan and France, have amended their tax laws to provide the necessary clarity therein to facilitate issuance of sukuk.

In view of this, we propose amending our tax laws to remove an impediment perceived by the market to developing a sukuk market in Hong Kong. This will help establish a conducive platform to enable the development of Islamic finance in Hong Kong, thereby diversifying the types of products and services available to our financial markets, and consolidating Hong Kong's status as an international financial centre and asset management centre.

President, I have to stress that the Bill will not confer special tax favours on the Islamic finance sector. The Bill is to ensure that financial instruments of similar economic substance are afforded similar tax treatments. In addition, the Bill will not make specific references to Shariah terminologies, as we have adopted a religion-neutral approach in drafting. We will use the term "alternative bond scheme" (ABS), instead of "sukuk", to denote debt security products to which the Bill will apply.

Sukuk can have a wide range of underlying structures. The Bill specifies four types of investment arrangements with reference to the different underlying structures of the most common types of sukuk in the global market. In order not to hinder market development, the Bill will propose a clause to enable the expansion of the coverage of eligible ABS by subsidiary legislation in future, to respond to evolving market developments.

We prescribe in the Bill a set of qualifying conditions for the proposed tax treatments of an ABS. Our principle is to ensure that a prospective ABS is economically equivalent to a typical conventional bond structure, hence its eligibility for the proposed tax treatments. We also need to ensure that reasonable safeguards are put in place to minimize tax avoidance, and that the proposed taxation framework would encourage the sukuk benefited from the framework to have a nexus with Hong Kong hence promoting our financial market development.

In respect of the proposed tax treatments, the Bill provides for certainty of the tax position of relevant bond and investment arrangements under an ABS. The underlying principle is to treat those arrangements in an ABS that meet the qualifying conditions as "debt arrangements" for the purposes of the IRO and SDO, and to apply to those arrangements the tax treatments as in the comparable case of conventional bonds. We therefore need to amend the relevant provisions of the IRO and SDO.

President, to ensure that the Bill is practicable, the Administration conducted a two-month public consultation on the relevant provisions in March 2012. A large majority of respondents welcomed the legislative objectives and proposal, believing that it will enhance Hong Kong's competitiveness in financial services and will enable Hong Kong to be a gateway for international Islamic finance. The Bill has adopted a number of specific suggestions made by market practitioners, relevant organizations and professional bodies, to whom I am grateful.

Subsequently, we briefed the Panel on Financial Affairs of the Legislative Council on the major elements of our legislative proposal at a meeting on 5 November 2012. The Panel noted the Administration's plan to provide a conducive taxation platform for the development of a sukuk market in Hong Kong, with a view to diversifying the products and services in our financial markets.

President, the Bill can ensure that the tax treatments for sukuk are consistent with those for conventional bonds, thereby removing an impediment perceived by the market to developing a sukuk market in Hong Kong. It will positively enhance the competitiveness of our financial services industry and promote our asset management business. I hope the Legislative Council will pass the Bill early, so that Hong Kong can become a conducive platform for

sukuk issuing activities, thus consolidating our status as an international financial centre and asset management centre.

I so submit. Thank you, President.

**PRESIDENT** (in Cantonese): I now propose the question to you and that is: That the Inland Revenue and Stamp Duty Legislation (Alternative Bond Schemes) (Amendment) Bill 2012 be read the Second time.

In accordance with the Rules of Procedure, the debate is now adjourned and the Bill is referred to the House Committee.

## **MEMBERS' MOTIONS**

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

First Member's motion: Proposed resolution under the Interpretation and General Clauses Ordinance to extend the period for amending the Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2012 and the Employment Ordinance (Amendment of Ninth Schedule) Notice 2012, which were laid on the table of this Council on 19 December 2012.

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

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

**MR ANDREW LEUNG** (in Cantonese): President, at the House Committee meeting on 4 January 2013, Members decided to form a Subcommittee to study the two items of subsidiary legislation as set out in the motion, and they agreed that I, as Chairman of the House Committee, should move a motion to extend the scrutiny period of the two items of subsidiary legislation to 6 February 2013, so as to allow sufficient time for scrutiny by the Subcommittee.

President, I urge Members to support the motion as set out in the Agenda.

**Mr Andrew LEUNG moved the following motion:**

"RESOLVED that in relation to the —

- (a) Minimum Wage Ordinance (Amendment of Schedule 3) Notice 2012, published in the Gazette as Legal Notice No. 186 of 2012; and
- (b) Employment Ordinance (Amendment of Ninth Schedule) Notice 2012, published in the Gazette as Legal Notice No. 187 of 2012,

and laid on the table of the Legislative Council on 19 December 2012, the period for amending subsidiary legislation referred to in section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) be extended under section 34(4) of that Ordinance to the meeting of 6 February 2013."

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

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

(No Members indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)



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

**PRESIDENT** (in Cantonese): Second Member's motion: Motion under Article 73(9) of the Basic Law.

I now call upon Mr LEUNG Kwok-hung to speak and move the motion.

### **MOTION UNDER ARTICLE 73(9) OF THE BASIC LAW**

**MR LEUNG KWOK-HUNG** (in Cantonese): President, please do a headcount according to the Rules of Procedure.

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

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

**PRESIDENT** (in Cantonese): Mr LEUNG Kwok-hung, please speak.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, I move that the motion, as printed on the Agenda, be passed. President, as I am one of the Members who initiate this motion, I will read out the entire motion in greater detail so that everybody, including the pro-establishment Members, can understand the motion.

"Whereas not less than one-fourth of all the Members of this Council have jointly initiated this motion charging the Chief Executive Mr LEUNG Chun Ying with serious breaches of law and/or dereliction of duty; and whereas the said Mr LEUNG Chun Ying has refused to resign within a reasonable time, this Council, in accordance with Article 73(9) of the Basic Law, hereby gives a mandate to the

Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee to investigate the alleged serious breaches of law and/or dereliction of duty and report its findings to this Council."

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

Particulars of serious breaches of law and/or dereliction of duty of the Chief Executive Mr LEUNG Chun Ying:

Charge 1: Intentionally giving false statements and answers in this Council in dereliction of the constitutional duty under Articles 60(1) and 64 of the Basic Law to be accountable to this Council as the head of the Government of the HKSAR.

In his conduct while being the Chief Executive of the Hong Kong Special Administrative Region (HKSAR), Mr LEUNG Chun Ying, in violation of his constitutional oath to uphold the Basic Law in the Office of Chief Executive of the HKSAR and serve the HKSAR conscientiously, dutifully, in full accordance with the law, honestly and with integrity, and in violation of his constitutional duty to be a person of integrity, to implement faithfully the Basic Law and other laws of the HKSAR and, as the head of the HKSAR Government, to be accountable to this Council, has committed an offence of intentionally giving false statements and/or answers to questions put to him in this Council. In all of this, Mr LEUNG Chun Ying has acted in dereliction of his constitutional duty under Articles 60(1) and 64 of the Basic Law to be accountable to this Council and to answer questions raised by members of this Council honestly and with integrity as the head of the Government of the HKSAR.

Charge 2: Engaging in a course of conduct in serious breach of Article 47(1) of the Basic Law.

In his conduct while being the Chief Executive of the HKSAR, Mr LEUNG Chung Ying, in violation of his constitutional oath to uphold the Basic Law in the Office of Chief Executive of the HKSAR and serve the HKSAR conscientiously, dutifully, in full accordance with the law, honestly and with integrity, and in violation of his constitutional duty to be a person of integrity, to

implement faithfully the Basic Law and other laws of the HKSAR and, as the head of the HKSAR Government, to be accountable to this Council, has engaged in a course of conduct designed to delay, impede, cover up, and conceal the fact that he had wilfully corrupted and manipulated the electoral process of the HKSAR and undermined the integrity of the Chief Executive Election 2012, which he won by dishonest means, namely, by making materially false and/or misleading statements. The means used to implement this course of conduct included one or more of the acts. In all of this, Mr LEUNG Chun Ying has been in serious breach of law, namely Article 47(1) of the Basic Law which provides that the Chief Executive must be a person of integrity, dedicated to his or her duties, and has been in dereliction of his constitutional duty as the Chief Executive in that he has undermined the integrity of his office, has brought disrepute on the office, has betrayed his trust as the Chief Executive, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the HKSAR.

Charge 3: Serious breach of law by culpable misconduct in public office in directing, causing, authorizing or permitting the Office of the Chief Executive-elect to make false and/or misleading statements in response to public inquiry.

In his conduct while being the Chief Executive-elect of the HKSAR, Mr LEUNG Chun Ying, having been appointed by the Central People's Government as the fourth term Chief Executive of the HKSAR on 28 March 2012 and in the course of his public office as the Chief Executive-elect, has wilfully misconducted himself without reasonable excuse or justification in that he wilfully directed, caused, authorized or permitted the Office of the Chief Executive-elect to make materially false and/or misleading statements to the public in response to public inquiry about the unauthorized building works at his residence at House Nos. A and B, No. 4 Peel Rise. In all of this, Mr LEUNG Chun Ying has been in serious breach of law through the commission of the common law offence of misconduct in public office.

Now, I will elaborate on the offences or unconstitutional acts that we accuse him of one by one.

- (1) At the session in this Council on 16 July 2012, Mr LEUNG Chun Ying said the following: (I quote) "我想重申，在有關問題上，

我自己有嚴重疏忽，但對所有可能違例的事項，我並沒有隱瞞，而是全部立即處理，部分僭建物已在一、兩天間拆除。(Translation: I wish to reiterate that in regard to this incident, there was gross negligence on my part, but I have never concealed any possible contraventions. Instead, I sought to deal with all the problems immediately by dismantling some of the UBWs in one or two days.) (End of quote)

By this statement, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had never deceived the public or concealed anything from the public regarding possible unauthorized building works (UBWs) at his residence at House Nos. A and B, No. 4 Peel Rise (the Properties), when he actually knew that the illegal room in the basement of the Properties and the brick wall therein were UBWs, and that the public did not know about their existence at all material times until the publication of his written statement dated 23 November 2012;

- (2) By the same statement set out in (1) above, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had already dealt with all the possible UBWs at the Properties immediately, when he knew that he had been ignoring the 4 letters from the Buildings Department requesting for information about the brick wall in the basement of the Properties and thus failed to deal with the illegal room in the basement of the Properties and the brick wall therein "immediately";
- (3) At the session in this Council on 10 December 2012, Mr LEUNG Chun Ying said the following: (I quote)

"在某些環節上，我是應該做得更加好，但我從來沒有任何欺騙或隱瞞，即使有些情節會令到大家覺得比較敏感等等，我都已向大家全部交代清楚。(Translation: On certain aspects, admittedly I should have done better, but I have never done anything to deceive or to conceal. Even on matters which may cause some feeling of sensitivity among people, I have already given a clear and full account.) (End of quote)

By this statement, Mr LEUNG Chun Ying repeated a false and/or misleading statement to this Council that he had never deceived the public or concealed anything from them regarding UBWs at the Properties, when in fact he knew that he had done precisely that at the session in this Council on 16 July 2012 as set out in paragraphs (1) and (2) above, and when in fact he knew that from or about 21 June 2012 till late November 2012, he had concealed from the public (1) the existence of the illegal room in the basement of the Properties; (2) the brick wall that he erected in November 2011 for the purpose of concealing the said illegal room in the basement of the Properties; and (3) the fact that the Buildings Department had issued 4 letters requesting for information on the construction and purpose of the brick wall;

- (4) At the session in this Council on 10 December 2012, Mr LEUNG Chun Ying said the following: (I quote)

"我從來都沒有隱瞞過，說那些僭建物，是還是不是我做的，而是我把事實清清楚楚說出來，由六月下旬到現在都是這樣。"(Translation: I have never concealed anything and said that those UBWs were or were not built by me. Instead, I have clearly stated all the facts, and this has been the case since the end of June and up to now.) (End of quote)

By this statement, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had never concealed the fact that he himself had built some of the UBWs at the Properties, when he knew that he had done precisely that in relation to at least an illegal wooden trellis which he claimed, through the Office of the Chief Executive-elect, on or about 20 June 2012, was already there when he purchased the Properties, but which was later replaced by a glass trellis, whereas as a matter of fact, both the wooden trellis as well as the glass trellis were actually built or caused to be built by Mr LEUNG Chun Ying after he moved into the Properties. The said statement from the Office of the Chief Executive-elect was as follows: (I quote)

"有關結構的前身為一木花棚，梁先生於2000年買入該物業時已經存在。因為白蟻蛀蝕嚴重，幾年前改建為一金屬加玻璃的簡單結構，本質為一建在花園的玻璃篷，並非密封，沒有增加要計算入地積比例的面積。前身的木花棚和改建的金屬加玻璃結構均沒有入則，屋宇署人員亦沒有到該物業視察。

"昨晚(周二)接獲貴報查詢，梁先生今早(周三)經諮詢專業意見後，決定立即拆除該結構，下午已清拆完畢。

"梁先生無意違反《建築物條例》。他在買入該物業後，只曾在通道上加建玻璃蓋，當時亦主動向屋宇署申請並獲批准，故他相信家中並無僭建物，否則不會在該玻璃篷前及家中其他地方多次接受媒體採訪。

"此事實屬無心之失，梁先生亦即時作出回應。"

(Translation: The relevant structure was originally a wooden trellis, which was in existence when Mr LEUNG purchased the properties in 2000. Because of the severe damage by termites, the trellis was rebuilt as a simple structure of metal and glass. It is by its nature a glass canopy in the garden and is not an enclosed structure; it does not add to the area relevant for the calculation of plot ratio. Neither the plan of the original wooden trellis or of the rebuilt metal and glass structure was submitted, and no official from the Buildings Department had inspected the premises.

After receiving inquiries from your newspaper last night (Tuesday), this morning (Wednesday) Mr LEUNG, after taking professional advice, decided to immediately dismantle the said structure. The dismantling work was completed in the afternoon.

Mr LEUNG never intended to violate the Buildings Ordinance. After purchasing the said property, he had only added a glass roof to the passageway, and at the time, he took the initiative to apply to the Buildings Department for approval, which he did receive. Therefore he believed that there were no UBWs at his residence. Otherwise, he would not have accepted media requests for

interviews in front of the said glass trellis or in other parts of his residence time and again.

This has been an inadvertent error, and Mr LEUNG has also responded at once.) (End of quote); and

- (5) At the session in this Council on 10 December 2012, Mr LEUNG Chun Ying said the following: (I quote)

"主席，這個有個事實上的問題，我記憶中我沒說過我沒有僭建。"(Translation: President, there is a factual question here: to my memory, I have never said that I did not have any UBWs.) (End of quote)

By this statement, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had never said that there were no UBWs at the Properties, when he knew that he had done precisely that on 14 and 15 May 2011, when he invited two groups of journalists to have lunch at his home and told them that there were no UBWs on his Properties, and that that had been confirmed to him by two lawyers and an architect/surveyor.

Deputy President, his blunders are too numerous to mention. I have tried hard to read out the motion but so far I cannot even read out half of it. I have no other alternatives but to ask you to read it on the Internet. I will later give my views in the debate on the impeachment motion. Thank you, Deputy President.

**Mr LEUNG Kwok-hung moved the following motion: (Translation)**

"Whereas not less than one-fourth of all the Members of this Council have jointly initiated this motion charging the Chief Executive Mr LEUNG Chun Ying with serious breaches of law and/or dereliction of duty (as particularized in the Schedule and Annexes appended to this motion); and whereas the said Mr LEUNG Chun Ying has refused to resign within a reasonable time, this Council, in accordance with Article 73(9) of the Basic Law, hereby gives a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee to investigate the alleged serious breaches of law and/or dereliction of duty and report its findings to this Council.

## Schedule

Particulars of serious breaches of law and/or dereliction of duty of the Chief Executive Mr LEUNG Chun Ying:

Charge 1: Intentionally giving false statements and answers in this Council in dereliction of the constitutional duty under Articles 60(1) and 64 of the Basic Law to be accountable to this Council as the head of the Government of the HKSAR

In his conduct while being the Chief Executive of the Hong Kong Special Administrative Region ("HKSAR"), Mr LEUNG Chun Ying, in violation of his constitutional oath to uphold the Basic Law in the Office of Chief Executive of the HKSAR and serve the HKSAR conscientiously, dutifully, in full accordance with the law, honestly and with integrity, and in violation of his constitutional duty to be a person of integrity, to implement faithfully the Basic Law and other laws of the HKSAR and, as the head of the HKSAR Government, to be accountable to this Council, has committed an offence of intentionally giving false statements and/or answers to questions put to him in this Council (as particularized in Annex I appended hereto). In all of this, Mr LEUNG Chun Ying has acted in dereliction of his constitutional duty under Articles 60(1) and 64 of the Basic Law to be accountable to this Council and to answer questions raised by members of this Council honestly and with integrity as the head of the Government of the HKSAR.

Charge 2: Engaging in a course of conduct in serious breach of Article 47(1) of the Basic Law

In his conduct while being the Chief Executive of the HKSAR, Mr LEUNG Chung Ying, in violation of his constitutional oath to uphold the Basic Law in the Office of Chief Executive of the HKSAR and serve the HKSAR conscientiously, dutifully, in full accordance with the law, honestly and with integrity, and in violation of his constitutional duty to be a person of integrity, to implement faithfully the Basic Law and other laws of the HKSAR and, as the head of the HKSAR Government, to be accountable to this Council, has engaged in a course of conduct designed to delay, impede, cover up, and conceal the fact that he had wilfully



corrupted and manipulated the electoral process of the HKSAR and undermined the integrity of the Chief Executive Election 2012, which he won by dishonest means, namely, by making materially false and/or misleading statements. The means used to implement this course of conduct included one or more of the acts particularized in Annex II appended hereto. In all of this, Mr LEUNG Chun Ying has been in serious breach of law, namely Article 47(1) of the Basic Law which provides that the Chief Executive must be a person of integrity, dedicated to his or her duties, and has been in dereliction of his constitutional duty as the Chief Executive in that he has undermined the integrity of his office, has brought disrepute on the office, has betrayed his trust as the Chief Executive, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the HKSAR.

Charge 3: Serious breach of law by culpable misconduct in public office in directing, causing, authorizing or permitting the Office of the Chief Executive-elect to make false and/or misleading statements in response to public inquiry

In his conduct while being the Chief Executive-elect of the HKSAR, Mr LEUNG Chun Ying, having been appointed by the Central People's Government as the fourth term Chief Executive of the HKSAR on 28 March 2012 and in the course of his public office as the Chief Executive-elect, has wilfully misconducted himself without reasonable excuse or justification in that he wilfully directed, caused, authorized or permitted the Office of the Chief Executive-elect to make materially false and/or misleading statements to the public in response to public inquiry about the unauthorized building works at his residence at House Nos. A and B, No. 4 Peel Rise (as particularized in Annex III appended hereto). In all of this, Mr LEUNG Chun Ying has been in serious breach of law through the commission of the common law offence of misconduct in public office.

#### Annex I

- (1) At the session in this Council on 16 July 2012, Mr LEUNG Chun Ying said the following:

"我想重申，在有關問題上，我自己有嚴重疏忽，但對所有可能違例的事項，我並沒有隱瞞，而是全部立即處理，部分僭建物已在一、兩天間拆除。"

(Translation

I wish to reiterate that in regard to this incident, there was gross negligence on my part, but I have never concealed any possible contraventions. Instead, I sought to deal with all the problems immediately by dismantling some of the UBWs in one or two days.)

By this statement, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had never deceived the public or concealed anything from the public regarding possible unauthorized building works ("UBWs") at his residence at House Nos. A and B, No. 4 Peel Rise ("the Properties"), when he actually knew that the illegal room in the basement of the Properties and the brick wall therein were UBWs, and that the public did not know about their existence at all material times until the publication of his written statement dated 23 November 2012;

- (2) By the same statement set out in (1) above, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had already dealt with all the possible UBWs at the Properties immediately, when he knew that he had been ignoring the 4 letters from the Buildings Department requesting for information about the brick wall in the basement of the Properties and thus failed to deal with the illegal room in the basement of the Properties and the brick wall therein "immediately";
- (3) At the session in this Council on 10 December 2012, Mr LEUNG Chun Ying said the following:

"在某些環節上，我是應該做得更加好，但我從來沒有任何欺騙或隱瞞，即使有些情節會令到大家覺得比較敏感等等，我都已向大家全部交代清楚。"

(Translation)

On certain aspects, admittedly I should have done better, but I have never done anything to deceive or to conceal. Even on matters which may cause some feeling of sensitivity among people, I have already given a clear and full account.)

By this statement, Mr LEUNG Chun Ying repeated a false and/or misleading statement to this Council that he had never deceived the public or concealed anything from them regarding UBWs at the Properties, when in fact he knew that he had done precisely that at the session in this Council on 16 July 2012 as set out in paragraphs (1) and (2) above, and when in fact he knew that from or about 21 June 2012 till late November 2012, he had concealed from the public (1) the existence of the illegal room in the basement of the Properties; (2) the brick wall that he erected in November 2011 for the purpose of concealing the said illegal room in the basement of the Properties; and (3) the fact that the Buildings Department had issued 4 letters requesting for information on the construction and purpose of the brick wall;

- (4) At the session in this Council on 10 December 2012, Mr LEUNG Chun Ying said the following:

"我從來都沒有隱瞞過，說那些僭建物，是還是不是我做的，而是我把事實清清楚楚說出來，由六月下旬到現在都是這樣。"

(Translation)

I have never concealed anything and said that those UBWs were or were not built by me. Instead, I have clearly stated all the facts, and this has been the case since the end of June and up to now.)

By this statement, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had never concealed the fact that he himself had built some of the UBWs at the Properties, when he knew that he had done precisely that in relation to at least an illegal wooden trellis which he claimed, through the Office of the Chief Executive-elect, on or about 20 June 2012, was

already there when he purchased the Properties, but which was later replaced by a glass trellis, whereas as a matter of fact, both the wooden trellis as well as the glass trellis were actually built or caused to be built by Mr LEUNG Chun Ying after he moved into the Properties. The said statement from the Office of the Chief Executive-elect was as follows:

"有關結構的前身為一木花棚，梁先生於2000年買入該物業時已經存在。因為白蟻蛀蝕嚴重，幾年前改建為一金屬加玻璃的簡單結構，本質為一建在花園的玻璃篷，並非密封，沒有增加要計算入地積比例的面積。前身的木花棚和改建的金屬加玻璃結構均沒有入則，屋宇署人員亦沒有到該物業視察。

昨晚(周二)接獲貴報查詢，梁先生今早(周三)經諮詢專業意見後，決定立即拆除該結構，下午已清拆完畢。

梁先生無意違反《建築物條例》。他在買入該物業後，只曾在通道上加建玻璃蓋，當時亦主動向屋宇署申請並獲批准，故他相信家中並無僭建物，否則不會在該玻璃篷前及家中其他地方多次接受媒體採訪。

此事實屬無心之失，梁先生亦即時作出回應。"

(Translation)

The relevant structure was originally a wooden trellis, which was in existence when Mr LEUNG purchased the properties in 2000. Because of the severe damage by termites, the trellis was rebuilt as a simple structure of metal and glass. It is by its nature a glass canopy in the garden and is not an enclosed structure; it does not add to the area relevant for the calculation of plot ratio. Neither the plan of the original wooden trellis or of the rebuilt metal and glass structure was submitted, and no official from the Buildings Department had inspected the premises.

After receiving inquiries from your newspaper last night (Tuesday), this morning (Wednesday) Mr LEUNG, after taking professional

advice, decided to immediately dismantle the said structure. The dismantling work was completed in the afternoon.

Mr LEUNG never intended to violate the Buildings Ordinance. After purchasing the said property, he had only added a glass roof to the passageway, and at the time, he took the initiative to apply to the Buildings Department for approval, which he did receive. Therefore he believed that there were no UBWs at his residence. Otherwise, he would not have accepted media requests for interviews in front of the said glass trellis or in other parts of his residence time and again.

This has been an inadvertent error, and Mr LEUNG has also responded at once.); and

- (5) At the session in this Council on 10 December 2012, Mr LEUNG Chun Ying said the following:

"主席，這個有個事實上的問題，我記憶中我沒說過我沒有僭建。"

(Translation

President, there is a factual question here: to my memory, I have never said that I did not have any UBWs.)

By this statement, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had never said that there were no UBWs at the Properties, when he knew that he had done precisely that on 14 and 15 May 2011, when he invited two groups of journalists to have lunch at his home and told them that there were no UBWs on his Properties, and that that had been confirmed to him by two lawyers and an architect/surveyor.

- (6) Article 64 of the Basic Law provides as follows:

"The Government of the Hong Kong Special Administrative Region must abide by the law and be accountable to the Legislative Council of the Region: it shall implement laws passed by the

Council and already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure."

- (7) Article 60(1) of the Basic Law provides as follows:

"The head of the Government of the Hong Kong Special Administrative Region shall be the Chief Executive of the Region."

#### Annex II

- (1) In 1999, when Mr LEUNG Chun Ying purchased the Properties, he knew or should have known that there were UBWs at the Properties;
- (2) By March 2009, Mr LEUNG Chun Ying had already evinced an intention to run as a candidate at the Chief Executive Election 2012 ("the CE Election");
- (3) In April and May 2011, it was widely reported that many prominent public figures in Hong Kong had UBWs on their properties, including, inter alia, the then Chief Executive Mr Donald TSANG, the then Secretary for Constitutional and Mainland Affairs Mr Stephen LAM, the then Secretary for Education Mr Michael SUEN, the Secretary for Commerce and Economic Development Mr Gregory SO, the Commissioner of Police Mr TSANG Wai-hung and many legislators across the political spectrum;
- (4) As a result, Mr Donald Tsang requested all senior officials to take the issue of UBWs seriously and check whether there were any UBWs on their properties. Mr LEUNG Chun Ying, being the then Convenor of the Non-Official Members of the Executive Council was clearly expected to do likewise;
- (5) As the press was interested to know whether Mr LEUNG Chun Ying also had UBWs on his Properties, Mr LEUNG Chun Ying

invited two groups of journalists to have lunch at his home on 14 and 15 May 2011, and told them that there were no UBWs on his Properties, and that that had been confirmed to him by two lawyers and an architect/surveyor;

- (6) Mr LEUNG Chun Ying clearly knew or should have known that the above statements were untrue. And he clearly intended these untrue statements to be published in local newspapers;
- (7) The above untrue statements were indeed published in four local Chinese language newspapers immediately thereafter, and misled many people in Hong Kong to think that unlike so many public figures, he was a law-abiding citizen and did not have UBWs at the Properties;
- (8) Neither Mr LEUNG Chun Ying, nor Mr TANG Ying Yen Henry ("Mr Henry TANG"), the then Chief Secretary for Administration and his main opponent at the CE Election followed the said advice of the then Chief Executive Mr Donald TSANG in that while Mr Henry TANG kept silent and did nothing, Mr LEUNG Chun Ying lied to the journalists who believed him;
- (9) The press reports of Mr LEUNG Chun Ying's false statements were continuously made publicly known on the Internet since mid-May 2011;
- (10) Mr LEUNG Chun Ying had thereby gained the confidence and trust of people of Hong Kong who believed that there were no UBWs at the Properties, and that he was a law-abiding citizen, unlike so many other prominent public figures;
- (11) In November 2011, Mr LEUNG Chun Ying erected or caused to be erected a brick wall in the basement of the Properties without the prior approval or consent of the Buildings Department, contrary to sections 14(1) and 40(1AA) of the Buildings Ordinance, Cap. 123, for the purpose of concealing the existence of an expanded and illegal room in the basement of the Properties;

- (12) During the CE Election Debate on 16 March 2012, and notwithstanding his actual knowledge that he had concealed the illegal room in the basement of the Properties by the said brick wall, and his actual or constructive knowledge of the existence of other UBWs at the Properties, Mr LEUNG Chun Ying challenged the integrity of Mr Henry TANG and accused him of having lied to the public regarding UBWs at his residence at Kowloon Tong as follows:

"唐英年先生，好多人話，你嘅僭建問題，唔係單純嘅僭建問題，而係公開咁向市民講大話，隱瞞你嘅僭建問題。直至到有傳媒圖文並茂咁刊登，你先出嚟老老實實承認，你隱瞞僭建呢個事實。"

(Translation

Mr TANG Ying Yen, many people say that the problem about your UBWs is not simply a UBWs issue; rather, you openly lied to the public and concealed your UBWs. Not until the media published full reports with pictures on your UBWs did you honestly admit that you had concealed the fact.)

thereby deliberately misleading the public into believing that he, unlike Mr Henry TANG, his main opponent at the CE Election, did not have any UBWs at the Properties and did not have the integrity problem that Mr Henry TANG had;

- (13) As a result, Mr Henry TANG's popular support fell remarkably, much to the advantage of Mr LEUNG Chun Ying;
- (14) In doing the above, Mr LEUNG Chun Ying had placed his personal interest in winning the CE Election above the public interest of preserving the integrity of the CE Election, and ensuring that the CE Election was genuine and fair;
- (15) After being appointed as the fourth term Chief Executive on 28 March 2012, Mr LEUNG Chun Ying continued to conduct himself in a manner which was in serious breach of Article 47(1) of the Basic Law for the purpose of resisting legal challenges to the



result of the CE Election and/or public pressure to step down, thus placing his private interest in assuming the Office of the Chief Executive above the public interest in maintaining the integrity of the Office of the Chief Executive-elect;

- (16) On 19 June 2012, having known that Ming Pao Daily News was going to report about the existence of UBWs at the Properties, Mr LEUNG Chun Ying called the Editor-in-Chief of Ming Pao Daily News directly, and thereby compromised the freedom of the press guaranteed by Article 27 of the Basic Law which Mr LEUNG Chun Ying had the constitutional duty to uphold;
- (17) On or about 20 June 2012, Mr LEUNG Chun Ying, through the Office of the Chief Executive-elect, denied responsibility for the existence of an illegal trellis at the Properties by saying that the wooden trellis was already there when he purchased the Properties, whereas as a matter of fact, both the wooden trellis and the glass trellis which replaced it were actually built or caused to be built by Mr LEUNG Chun Ying after he moved into the Properties. The said statement of the Office of the Chief Executive-elect was as follows:

"有關結構的前身為一木花棚，梁先生於2000年買入該物業時已經存在。因為白蟻蛀蝕嚴重，幾年前改建為一金屬加玻璃的簡單結構，本質為一建在花園的玻璃篷，並非密封，沒有增加要計算入地積比例的面積。前身的木花棚和改建的金屬加玻璃結構均沒有入則，屋宇署人員亦沒有到該物業視察。

昨晚(周二)接獲貴報查詢，梁先生今早(周三)經諮詢專業意見後，決定立即拆除該結構，下午已清拆完畢。

梁先生無意違反《建築物條例》。他在買入該物業後，只曾在通道上加建玻璃蓋，當時亦主動向屋宇署申請並獲批准，故他相信家中並無僭建物，否則不會在該玻璃篷前及家中其他地方多次接受媒體採訪。

此事實屬無心之失，梁先生亦即時作出回應。"

(Translation)

The relevant structure was originally a wooden trellis, which was in existence when Mr LEUNG purchased the properties in 2000. Because of the severe damage by termites, the trellis was rebuilt as a simple structure of metal and glass. It is by its nature a glass canopy in the garden and is not an enclosed structure; it does not add to the area relevant for the calculation of plot ratio. Neither the plan of the original wooden trellis or of the rebuilt metal and glass structure was submitted, and no official from the Buildings Department had inspected the premises.

After receiving inquiries from your newspaper last night (Tuesday), this morning (Wednesday) Mr LEUNG, after taking professional advice, decided to immediately dismantle the said structure. The dismantling work was completed in the afternoon.

Mr LEUNG never intended to violate the Buildings Ordinance. After purchasing the said property, he had only added a glass roof to the passageway, and at the time, he took the initiative to apply to the Buildings Department for approval, which he did receive. Therefore he believed that there were no UBWs at his residence. Otherwise, he would not have accepted media requests for interviews in front of the said glass trellis or in other parts of his residence time and again.

This has been an inadvertent error, and Mr LEUNG has also responded at once.);

- (18) On or about 26 June 2012, Mr LEUNG Chun Ying directed, caused, authorized, or permitted the Office of the Chief Executive-elect to respond to a press enquiry as to the existence of the illegal room in the basement of the Properties by making a false and/or misleading statement denying the existence of such a room, when he had actual knowledge of its existence. The Apple Daily dated 26 June 2012 reported as follow:

"繼早前被傳媒及屋宇署揭出大宅六處僭建後，昨日有消息向本報稱，梁振英山頂貝璐道4號屋的地庫還有一間

200呎懷疑僭建房間，供梁家作工人房使用。梁振英否認有此僭建，屋宇署表示會跟進。

梁振英否認屋宇署跟進

4號屋依山而建，靠山一面的入口在地下，向行車路；另一面在地庫一層，外面是花園。消息指僭建房間應是在地庫向山延伸，在行車路下地底挖出約200呎的空間。根據圖則，地庫後面的地底應為"未經挖掘(unexcavated)"，不應有空間，如建有房間則屬僭建。候任特首辦昨晚10時回覆否認有此僭建。屋宇署表示日前視察主要是屋外僭建，現為新指控，須再跟進。"

(Translation

Following earlier reports by the media and the Buildings Department revealing that the mansion had six UBWs, a source informed this newspaper that there is another suspected illegal room of 200-feet in the basement of LEUNG Chun Ying's House No 4 on Peel Rise at the Peak for the Leung family to use as a servant's room. LEUNG Chun Ying denies the existence of such UBWs, and the Buildings Department indicated that it would follow up on it.

LEUNG Chun Ying denies and the Buildings Department follows up

House No 4 was built next to the hillside, the entrance on the side of the hillside is on the ground floor facing the roads; the other side is on the first floor of the basement, outside which is the gardens. The report says that the illegal room should be in the basement extending into the hillside, with a space of about 200 feet dug underneath the roads. According to the plans, the part of the underground of the back of the basement should be "unexcavated", so there should not be any space there, and any room constructed there would constitute UBWs. At 10 p.m. last night, the Office of the Chief Executive-elect denied the existence of such UBWs. The Buildings Department indicated that the inspection a few days ago was mainly of UBWs outside of the house; this is a new allegation which needs to be followed up.);

- (19) On 1 July 2012, Mr LEUNG Chun Ying took the Oath of the Chief Executive to serve the HKSAR conscientiously, dutifully, in full accordance with the law, honestly and with integrity;
- (20) Despite the Oath of the Chief Executive, Mr LEUNG Chun Ying continued to conduct himself in a manner which was in serious breach of Article 47(1) of the Basic Law for the purpose of resisting legal challenges to the result of the CE Election and/or public pressure to step down, thus placing his private interest in remaining in the Office of the Chief Executive above the public interest in maintaining the integrity of the Office of the Chief Executive;
- (21) From or about 21 June 2012 till late November 2012, and despite repeated promises to make full and frank disclosure of the details of the UBWs at the Properties, Mr LEUNG Chun Ying had, inter alia, concealed from the public (1) the existence of the illegal room in the basement of the Properties; (2) the brick wall that he erected in November 2011 for the purpose of concealing the said illegal room in the basement of the Properties; and (3) the fact that the Buildings Department had issued 4 letters requesting for information on the construction and purpose of the brick wall;
- (22) In answer to the public concern that he should have notified the Buildings Department of the existence of the illegal room in the basement of the Properties instead of concealing it by erecting the brick wall in November 2011, Mr LEUNG Chun Ying said the following on 26 November 2012:

"我當時係無隱瞞嘅。我當時嘅認知，係個僭建處理咗，個僭建就唔存在……嗰次係我第一次處理僭建，當時個工程比較細，我唔知道係要通知屋宇署。"

(Translation)

I did not conceal anything at the time. My understanding at the time was that once the UBWs were dealt with, they no longer existed ..... it was the first time I dealt with UBWs. The scale of the project at the time was relatively small; I did not know I had to notify the Buildings Department.)

Mr LEUNG Chun Ying lied to the public when he said in the above statement that he did not know he had to notify the Buildings Department of the said illegal room and of the erection of the brick wall because that was the first time he had handled UBWs, when as a matter of fact he had previous experience in handling UBWs at his other property in Stanley; and

(23) In order to avoid criticism from the public and members of this Council, Mr LEUNG Chun Ying further told the following lies to the public when addressing this Council:

(i) At the session in this Council on 16 July 2012, Mr LEUNG Chun Ying said the following:

"我想重申，在有關問題上，我自己有嚴重疏忽，但對所有可能違例的事項，我並沒有隱瞞，而是全部立即處理，部分僭建物已在一、兩天間拆除。"

(Translation

I wish to reiterate that in regard to this incident, there was gross negligence on my part, but I have never concealed any possible contraventions. Instead, I sought to deal with all the problems immediately by dismantling some of the UBWs in one or two days.)

By this statement, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had never deceived the public or concealed anything from the public regarding possible UBWs at the Properties, when he actually knew that the illegal room in the basement of the Properties and the brick wall therein were UBWs, and that the public did not know about their existence at all material times until the publication of his written statement dated 23 November 2012;

(ii) By the same statement set out in (i) above, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had already dealt with all the possible UBWs at the Properties immediately, when he knew that he had

been ignoring the 4 letters from the Buildings Department requesting for information about the brick wall in the basement of the Properties and thus failed to deal with the illegal room in the basement of the Properties and the brick wall therein "immediately";

- (iii) At the session in this Council on 10 December 2012, Mr LEUNG Chun Ying said the following:

"在某些環節上，我是應該做得更加好，但我從來沒有任何欺騙或隱瞞，即使有些情節會令到大家覺得比較敏感等等，我都已向大家全部交代清楚。"

(Translation)

On certain aspects, admittedly I should have done better, but I have never done anything to deceive or to conceal. Even on matters which may cause some feeling of sensitivity among people, I have already given a clear and full account.)

By this statement, Mr LEUNG Chun Ying repeated a false and/or misleading statement to this Council that he had never deceived the public or concealed anything from them regarding UBWs at the Properties, when in fact he knew that he had done precisely that as set out in paragraphs (21) and (23)(i) above;

- (iv) At the session in this Council on 10 December 2012, Mr LEUNG Chun Ying said the following:

"我從來都沒有隱瞞過，說那些僭建物，是還是不是我做的，而是我把事實清清楚楚說出來，由六月下旬到現在都是這樣。"

(Translation)

I have never concealed anything and said that those UBWs were or were not built by me. Instead, I have clearly stated all the facts, and this has been the case since the end of June and up to now.)

By this statement, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had never concealed the fact that he himself had built some of the UBWs at the Properties, when he knew that he had done precisely that in relation to the illegal trellis as set out in paragraph (17) above; and

- (v) At the session in this Council on 10 December 2012, Mr LEUNG Chun Ying said the following:

"主席，這個有個事實上的問題，我記憶中我沒說過我沒有僭建。"

(Translation

President, there is a factual question here: to my memory, I have never said that I did not have any UBWs.)

By this statement, Mr LEUNG Chun Ying made a false and/or misleading statement to this Council that he had never said that there were no UBWs at the Properties, when he knew that he had done precisely that as set out in paragraph (5) above.

### Annex III

- (1) On or about 20 June 2012, Mr LEUNG Chun Ying, through the Office of the Chief Executive-elect, denied responsibility for the existence of an illegal trellis at the Properties by saying that the wooden trellis was already there when he purchased the Properties, whereas as a matter of fact, both the wooden trellis and the glass trellis which replaced it were actually built or caused to be built by Mr LEUNG Chun Ying after he moved into the Properties. The said statement of the Office of the Chief Executive-elect was as follows:

"有關結構的前身為一木花棚，梁先生於2000年買入該物業時已經存在。因為白蟻蛀蝕嚴重，幾年前改建為一金屬加玻璃的簡單結構，本質為一建在花園的玻璃篷，並非密

封，沒有增加要計算入地積比例的面積。前身的木花棚和改建的金屬加玻璃結構均沒有入則，屋宇署人員亦沒有到該物業視察。

昨晚(周二)接獲貴報查詢，梁先生今早(周三)經諮詢專業意見後，決定立即拆除該結構，下午已清拆完畢。

梁先生無意違反《建築物條例》。他在買入該物業後，只曾在通道上加建玻璃蓋，當時亦主動向屋宇署申請並獲批准，故他相信家中並無僭建物，否則不會在該玻璃篷前及家中其他地方多次接受媒體採訪。

此事實屬無心之失，梁先生亦即時作出回應。"

(Translation

The relevant structure was originally a wooden trellis, which was in existence when Mr LEUNG purchased the properties in 2000. Because of the severe damage by termites, the trellis was rebuilt as a simple structure of metal and glass. It is by its nature a glass canopy in the garden and is not an enclosed structure; it does not add to the area relevant for the calculation of plot ratio. Neither the plan of the original wooden trellis or of the rebuilt metal and glass structure was submitted, and no official from the Buildings Department had inspected the premises.

After receiving inquiries from your newspaper last night (Tuesday), this morning (Wednesday) Mr LEUNG, after taking professional advice, decided to immediately dismantle the said structure. The dismantling work was completed in the afternoon.

Mr LEUNG never intended to violate the Buildings Ordinance. After purchasing the said property, he had only added a glass roof to the passageway, and at the time, he took the initiative to apply to the Buildings Department for approval, which he did receive. Therefore he believed that there were no UBWs at his residence. Otherwise, he would not have accepted media requests for interviews in front of the said glass trellis or in other parts of his residence time and again.



This has been an inadvertent error, and Mr LEUNG has also responded at once.); and

- (2) On or about 26 June 2012, Mr LEUNG Chun Ying directed, caused, authorized, or permitted the Office of the Chief Executive-elect to respond to a press enquiry as to the existence of the illegal room in the basement of the Properties by making a false and/or misleading statement denying the existence of such a room, when he had actual knowledge of its existence. The Apple Daily dated 26 June 2012 reported as follows:

"繼早前被傳媒及屋宇署揭出大宅六處僭建後，昨日有消息向本報稱，梁振英山頂貝璐道4號屋的地庫還有一間200呎懷疑僭建房間，供梁家作工人房使用。梁振英否認有此僭建，屋宇署表示會跟進。

梁振英否認屋宇署跟進

4號屋依山而建，靠山一面的入口在地下，向行車路；另一面在地庫一層，外面是花園。消息指僭建房間應是在地庫向山延伸，在行車路下地底挖出約200呎的空間。根據圖則，地庫後面的地底應為"未經挖掘(unexcavated)"，不應有空間，如建有房間則屬僭建。候任特首辦昨晚10時回覆否認有此僭建。屋宇署表示日前視察主要是屋外僭建，現為新指控，須再跟進。"

(Translation)

Following earlier reports by the media and the Buildings Department revealing that the mansion had six UBWs, a source informed this newspaper that there is another suspected illegal room of 200-feet in the basement of LEUNG Chun Ying's House No 4 on Peel Rise at the Peak for the Leung family to use as a servant's room. LEUNG Chun Ying denies the existence of such UBWs, and the Buildings Department indicated that it would follow up on it.

LEUNG Chun Ying denies and the Buildings Department follows up

House No 4 was built next to the hillside, the entrance on the side of the hillside is on the ground floor facing the roads; the other side is on the first floor of the basement, outside which is the gardens. The report says that the illegal room should be in the basement extending into the hillside, with a space of about 200 feet dug underneath the roads. According to the plans, the part of the underground of the back of the basement should be "unexcavated", so there should not be any space there, and any room constructed there would constitute UBWs. At 10 p.m. last night, the Office of the Chief Executive-elect denied the existence of such UBWs. The Buildings Department indicated that the inspection a few days ago was mainly of UBWs outside of the house; this is a new allegation which needs to be followed up.). "

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

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): Deputy President, today, I speak solemnly and prudently in response to this unprecedented motion debate in the Legislative Council that, in accordance with Article 73(9) of the Basic Law, the Chief Justice of the Court of Final Appeal be given a mandate to form an independent investigation committee to investigate the Chief Executive's alleged dereliction of duty and serious breaches of law.

Today's motion is the third of its kind on the same incident after the motion of no confidence in the Chief Executive and the motion to invoke the Legislative Council (Powers and Privileges) Ordinance to investigate into the incident relating to the unauthorized building works (UBWs) proposed respectively at the meetings of the Legislative Council on 12 and 19 December. After 11 hours of debate in total, the Legislative Council had vetoed the two previous motions. I believe that the relevant decisions have reflected public opinion and are in the overall interest of society. Hence, today, I still urge Honourable Members to veto the motion moved by Mr LEUNG Kwok-hung.

I would like to reiterate several points of facts. Speaking in the Legislative Council on 16 July, the Chief Executive had already stated clearly that with regard to the incident of UBWs at his Peak residence, he would appoint a multidisciplinary professional team to conduct a comprehensive inspection of

the UBWs or possible UBWs at his residence, with a view to enabling him to, once and for all, fully answer all relevant questions. On that occasion, he reiterated that he would honour his undertaking and offer a comprehensive account of all the problems to the whole community; yet, given that some people had filed an application for leave to apply for judicial review and also an election petition, and legal proceedings concerning the case had commenced, it was inappropriate for him to comment publicly on the matter any further at the Council meeting. In his words, this was "much against his own wishes".

The above-mentioned legal proceedings had been concluded in late November. As undertaken, the Chief Executive immediately issued a detailed written statement on 23 November to give a complete account of the incident relating to the UBWs in his properties. On 10 December, he also attended the Question and Answer Session of the Legislative Council in person to respond to Members' questions. The Chief Executive had already admitted publicly his negligence and unclear explanation in some aspects in the handling process, but he had had no intention whatsoever of concealing anything; in this connection, he even tendered his solemn apology to the public time and again, and promised that he would be doubly prudent in the future, continuing to uphold integrity in the course of serving the general public.

When attending the Question and Answer Session of the Legislative Council on 10 December, the Chief Executive explained once again that since late June when the press started to carry reports on the presence of UBWs in his Peak properties, he had fully co-operated with the inspections of the Buildings Department (BD). He fully respected the independent and professional judgment of the BD, and had never interfered with the work of the BD. For any areas identified by the BD as having problems, he invariably took very serious steps of rectification. At the same time, when he issued the statement to account for the incident, he also instructed an authorized person to make appointments with the BD, so as to follow up and handle the potentially problematic UBWs. The Chief Executive also reiterated at the Question and Answer Session that the BD had always been perfectly impartial and acted in strict accordance with the law. But some still queried the BD, which was unfair, and he was sorry that civil servants and the accountability officials concerned had had to endure such pressure.

This shows that the Chief Executive has already responded to the concerns expressed by the community positively, seriously and responsibly.

Deputy President, it is a gravely serious matter under any constitutional system to activate the procedure for the impeachment of the head of the executive authorities, and it must be dealt with seriously. Both of the two previous motions moved in the Legislative Council — namely, the motion of no confidence in the Chief Executive and the motion to invoke the Legislative Council (Powers and Privileges) Ordinance to investigate into the related issues — had been vetoed, and I honestly see no reason for moving this motion today. Actually, many voices have been heard in society that the Government and the Legislative Council should no longer waste the precious time of this Council on this subject, but instead re-focus themselves on handling important policy matters and livelihood issues.

Since he assumed office, the Chief Executive has been leading his team and the SAR Government to promote social and economic development of Hong Kong with great devotion, and he is firmly committed to raising the quality of life of the people. Within a short span of six months in office, the Chief Executive has already announced a series of relevant measures decisively, which includes introducing a policy change to curb "doubly non-permanent resident pregnant women" coming to give birth in Hong Kong, proposing to suspend the expansion of the Individual Visit Scheme of Mainland residents, increasing the rate of the Special Stamp Duty and introducing a Buyer's Stamp Duty, introducing the "Hong Kong property for Hong Kong residents" policy, as well as re-establishing the Commission on Poverty, setting a poverty line, and so on.

Under the Chief Executive's leadership, the Government is a government doing real work. With less than one week to go before the Chief Executive announces his first Policy Address after he assumed office, I think this is the moment to focus on handling policy issues. There are many issues pending to be addressed in Hong Kong such as poverty, housing, ageing population, and environmental problems. It is the people's aspiration that all parties can stop such political infighting, so as to give room for the Government to do real work for the people and bring them benefits.

Deputy President, the SAR Government is firmly opposed to the motion proposed by Mr LEUNG Kwok-hung. I will respond later after listening to Members' speeches.

Thank you, Deputy President.

**MR GARY FAN** (in Cantonese): Deputy President, I would like to confirm if I can speak for 15 minutes. Is that right?

**DEPUTY PRESIDENT** (in Cantonese): Yes.

**MR GARY FAN** (in Cantonese): Okay, thank you.

Deputy President, Taiwan's ex-president CHEN Shui-bian was suspected of being shot on the day before the Taiwan Presidential Election in 2004, and he eventually got the sympathy votes and was re-elected. At that time, the public opinion was that CHEN Shui-bian had self-directed the shooting to deceive Taiwanese people and won in the election. In Taiwan's political circle, the adage that "the top seat is not gained by wits" is often quoted to warn ambitious politicians in and out of government. The contemporary meaning of this saying is that "the top seat is only for a man of great virtue". While the top seat represents power and glory, it also entails duty. When we say "the top seat is not gained by wits", it means that it is not enough for the man in the top seat to have wits; he must have something more in his moral character. In history, the top seat was very often not taken by the cleverest man. To fight for the highest seat, one should rely on his integrity, political achievements, as well as the efforts made to safeguard the real interests of the people. Maneuvers, tricks, lies and smears should not be on the list.

Deputy President, unfortunately, our Chief Executive, LEUNG Chun-ying, is exactly someone who reversed the inferior position by lying, concealing the truth, smearing and attacking his rivals. By adopting these tactics, he won the small-circle election dominated by the Chinese Communist Party and tycoons, ascending to the throne of the Hong Kong Special Administrative Region (HKSAR) as the Chief Executive. LEUNG Chun-ying had once said that the issue of unauthorized building works (UBWs) was an integrity issue. How can a man like LEUNG Chun-ying, who is a thief crying thief, be qualified to act as our Chief Executive? How can he be qualified to remain in office?

After winning the election, he continued to cover up his lie with other lies when the media inquired into his case, putting off the UBWs issue repeatedly for six whole months. It was until Members of the Legislative Council looked into

his case and requested LEUNG Chun-ying to come before the Council that he gave a full account of the issue. Originally, it should be a good chance for LEUNG Chun-ying to admit his fault and beg for the forgiveness of the media, the public and the Legislative Council. Unfortunately, the "Cheating Executive" LEUNG Chun-ying continued to obscure the facts by playing "hypocritical rhetoric". In May 2011, LEUNG Chun-ying told the media and reporters that he had submitted plans for all the structures in his house and had commissioned two professionals to ensure that the structures were in compliance with the statutory requirements. Unexpectedly, at the Chief Executive's Question and Answer Session in December 2012, LEUNG Chun-ying said that "I have never said that I did not have any UBWs". Constitutionally speaking, the Chief Executive is accountable to the legislature and is monitored by the Legislative Council. Yet, he does not even want to take up this constitutional and political responsibility right now. How can LEUNG Chun-ying be qualified to remain in office as the Chief Executive?

Deputy President, today, 27 pan-democratic legislators move an impeachment motion against LEUNG Chun-ying, the "Cheating Executive". It is the first time in history that legislators exercise this power, which is conferred by the Basic Law. The three major charges against LEUNG Chun-ying are: Firstly, intentionally giving false statements and answers in this Council in dereliction of the constitutional duty of the Chief Executive to be accountable to this Council; secondly, violating the oath he took under the Basic Law and failing to fulfil his constitutional duty conscientiously, dutifully, in full accordance with the law, honestly and with integrity; thirdly, directing, causing, authorizing or permitting the Office of the Chief Executive-elect to make false and misleading statements in response to public inquiry. Deputy President, this impeachment motion does not direct against his UBWs, but his integrity.

Deputy President, in other civilized countries or normal societies, a political leader will have to resign and step down if he lies to the parliament. If we continue to tolerate LEUNG Chun-ying lying to the Legislative Council, we may have the Chief Secretary for Administration lying to us tomorrow and the Financial Secretary doing the same thereafter. If no official is going to discuss public policies with the Legislative Council in an open and transparent manner, we will not be able to monitor the Government.

Previously, Fanny LAW FAN Chiu-fun, a Member of the Executive Council, has surprisingly said that the integrity of the Chief Executive is not important; it is his ability that counts. Yet, we all know that the integrity problem will often affect one's governance. A Chief Executive who cheats will lose the trust of the people. How can Hong Kong people believe that a man without integrity will honour his election promises and policy commitments? How can we trust a man without morality in leading hundreds of thousands of civil servants in Hong Kong and managing a fiscal reserve of more than a trillion dollars? How can Hong Kong people believe that LEUNG Chun-ying will really defend our interests?

Deputy President, Dr SUN Yat-sen, the father of the Republic of China, once said that "morality forms a nation; morality forms the world". Political leaders are supposed to be virtuous and competent. Right now, LEUNG Chun-ying has his integrity gone bankrupt on the UBWs issue. He has got great problems in terms of morality. In respect of competency, he also has many deficiencies. After taking office, he has made many mistakes in his governance, including pushing through brainwashing national education, destructing Lung Mei beach, betraying Hong Kong by ceding our territory in the course of the northeast New Territories development, damaging the rule of law by seeking an interpretation of the Basic Law, allowing the Central Policy Unit to interfere with academic freedom, failing to effectively stop the influx of "doubly non-permanent resident pregnant women" and parallel traders, being nepotistic and appointing LAU Kong-wah as an undersecretary after he was defeated in the direct election. That is why some 140 000 Hong Kong people took to the streets on the recent New Year's Day to impeach the "Cheating Executive" with their feet, demanding LEUNG Chun-ying, who is neither virtuous nor competent, to step down.

Deputy President, this year is the 10th anniversary of the mass rally when some 500 000 people took to the streets on 1 July 2003. With the nurturing over the past decade, Hong Kong people become more mature in the awakening of their civil rights. This awakening originated from people's aspiration for a just society and their strong adherence to some core values, such as upholding the rule of law, a corrupt-free system and freedom of speech. Therefore, in the past few years, there were a number of social movements, which included opposing the construction of the Express Rail Link, safeguarding Choi Yuen Tsuen, opposing the introduction of the "brainwashing" national education, defending northeast New Territories and stopping the influx of parallel traders. To us, the new

generation of people born and raised in Hong Kong, it is our duty to safeguard our homeland since a sweet home is not built solely on money and blind development. We must also value morality and seek justice to take care of the underprivileged. Hong Kong people must fight for the values and systems that we treasure.

Deputy President, I know that half of the Legislative Council Members are returned from functional constituencies and there are many pro-establishment Members and royalists in the Council. They will not think independently about these important political issues but will just defend the Government blindly. Although we know that today's motion is unlikely to get passed, the Legislative Council, being the most important institution representing the people, has the constitutional duty to come forward and look into LEUNG Chun-ying's case rigorously, and kick him out with this impeachment motion. Only in this way can we rebuild the political ethics in Hong Kong and the public confidence in the SAR Government.

Deputy President, I so submit and support the impeachment motion of today.

**MR RONNY TONG** (in Cantonese): Deputy President, today is a very important date in the history of the SAR Government. Yet, it is an ignominious day. The importance of today is not only that the head of Hong Kong has to face impeachment but also that it is the first time for China having a local top official to face impeachment. Deputy President, I must first clarify one point. Many media and people call the motion today an impeachment motion; that is not correct. It is indeed a motion making charges. According to the Basic Law, a motion of impeachment may only be passed after an investigation committee chaired by the Chief Justice has carried out an investigation and reported its findings. If this motion is passed by a two-thirds majority of all Members of the Legislative Council, the Council may report it to the Central People's Government for its decision on whether the Chief Executive should be removed from office.

However, what we do today is only to kick start the impeachment procedure as, under the Basic Law, the first step is obviously to make a charge. Deputy President, the word "impeach" in itself does not carry the meaning of



"deposition" or "removal from office". It comes from Latin, with the meaning of "making a charge against someone". The meaning of this old word suggests that the charge so made should involve a violation of integrity and honesty.

Under the Basic Law, the political system of Hong Kong is modeled on the presidential system of the United States instead of the parliamentary system of the United Kingdom. The difference between these two systems is that: Under the presidential system, the checks and balances between the head of state and the parliament may prompt the latter to impeach the former; on the contrary, as the head of state under the parliamentary system is elected by the majority ruling party, the parliament will unlikely impeach the head of state. If the head of state makes a mistake, the ruling party may demand him to step down through the party's internal mechanism.

As checks and balances between the executive authorities and the legislature are the basis of the impeachment mechanism, the legislature is duty-bound to check the executive authorities by activating the impeachment mechanism when it suspects that the moral conduct of the Chief Executive has failed to meet the constitutional requirements for his position. Therefore, the motion that we move today is the final procedure to check the Chief Executive; otherwise, it will mean that the Chief Executive cannot be checked.

The second point I want to clarify is that the impeachment mechanism does not focus on the competence of the Chief Executive. Otherwise, the Basic Law may simply provide that the Chief Executive may be impeached if he is not able to discharge his duties. Yet, we must know that "competence" is not easy to assess. Although many people think that TUNG Chee-hwa was not capable, it was hard to prove.

Deputy President, why does the impeachment mechanism focus on moral conduct rather than competence? We know about this point from the Basic Law. However, the Chief Secretary for Administration has just said that in view of the outstanding issues on people's livelihood, we should not waste time on impeaching the Chief Executive but should give him an opportunity to do the real work. In the community, some royalists or citizens — many of them are now standing outside the Complex — query why we do not give the Chief Executive a chance to do his work. They ask us to let the Chief Executive do his work. I must point out here that such a view has misinterpreted the most important spirit

of the impeachment mechanism under the Basic Law, that is, the Chief Executive, no matter how capable he is, must be impeached if his moral conduct fails to meet the minimum requirements set out in the Basic Law. Deputy President, Qin Shihuang, who unified China and standardized the units of measurements, was very capable but he was not a good leader. Hence, we should not focus on the competence of the Chief Executive or whether he can get his job done. Instead, we should consider if his moral conduct meets the minimum requirements in the Basic Law.

Deputy President, you may ask me which part of the Basic Law stipulates the requirement on moral conduct of the Chief Executive. In fact, the Basic Law does not say much about this point. We can only know about the relevant requirements by referring to Article 47. This Article describes aptly the proper moral conduct of the Chief Executive in a few words, that is, "廉潔奉公 (be clean and honest in discharging public duties)、盡忠職守 (be dedicated to his or her duties)". "廉潔" (be clean) means that the Chief Executive must not be as corrupt as Donald TSANG. But what does it mean by "奉公" (be honest in discharging public duties)? Is law-abiding sufficient? Is the Chief Executive dedicated to his or her duties ("盡忠職守") if he or she just works from 9 am to 5 pm a day? Or does he or she have to work till midnight? Yet, the strange thing is that the English wording of this Article does not carry the same meaning as the Chinese text. In the English text, it reads that the Chief Executive must be "a person of integrity, dedicated to his or her duties". It means the Chief Executive must be a person of integrity who discharges his or her duties with integrity. Deputy President, when we read the Basic Law, we cannot just read either its English text or Chinese text. We must take into consideration the messages conveyed in both the Chinese and English texts.

The requirement of "廉潔奉公" means that the Chief Executive must be a person of integrity before he or she is allowed to discharge the duties of the Chief Executive. This point is made clear in Article 73(9), which provides that 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 pass a motion for investigation.

Deputy President, as serious breach of law and dereliction of duty do not concern with one's competence, it proves that I am right in saying that

competence is not the key factor to be considered and we should give thought to the moral conduct of the Chief Executive instead. If he is in serious breach of law, it means that his moral conduct is poor; if he is guilty of dereliction of duty, his conduct is also called into question. On the Chinese term "瀆職", I must say that the English term also carries a different meaning. In the English text, the term used is "dereliction of duty", the direct translation of which is "缺職". Is the meaning of "瀆職" as simple as that? Deputy President, "瀆職" is different from "缺職". "瀆職" means that a person has brought disgrace to the post in question. If the behaviour of the Chief Executive has brought disgrace to his official post, Hong Kong people are not going to accept that. He has violated Article 73(9) of the Basic Law, constituting the grounds for making a charge against him.

Deputy President, this is a very long motion, and many people say that its wordings are complicated and clumsy. However, the grounds for moving this motion is actually very simple, that is: Do people feel ashamed to have such a person as the Chief Executive of Hong Kong? I do. I do not know if the Deputy President feels the same. Regarding this man who is holding the post of Chief Executive, as many as 80% of Hong Kong people believe that he has told lies and half of them think that he should step down. Although the other 50% considers that he should remain in office as what he did was just telling lies and he has the support of the Central Government. However, I do not think it is the right answer to the present situation.

Deputy President, politically speaking, when one considers whether it is right for LEUNG Chun-ying to remain in office, it is the political judgment of that person. However, if you think that it is a shame for Hong Kong to have a liar with no integrity to act as our Chief Executive, bringing disgrace to the post of Chief Executive, Article 73(9) of the Basic Law should apply. Let me repeat once again: This provision does not set any requirement on the competence of the Chief Executive. Therefore, please do not tell me that LEUNG Chun-ying is capable and he will be able to address the housing and poverty issues. It is not the focus of the impeachment mechanism. The focus is whether his ethic conduct meets the minimum requirements as stipulated in the Basic Law.

Deputy President, this charge can actually be divided into three major parts. At first, when Mr LEUNG Kwok-hung proposed to impeach Mr LEUNG Chun-ying, I had much reservation about his idea. I even said in public that

there were no grounds for impeachment because Mr LEUNG Kwok-hung was then focusing on the point that LEUNG Chun-ying had lied before he assumed office as the Chief Executive. Just now, I said that the ethic conduct of the Chief Executive must meet the basic requirements. However, a person who had lied before may repent and become honest after he was elected the Chief Executive. In my view, although the Basic Law does not provide that the Chief Executive should be impeached for his previous wrongdoings, integrity is an important attribute for politicians, not to mention the Chief Executive. If he continues to conceal the truth and tell lies after taking office as the Chief Executive, it means that he fails to meet the minimum requirements set out in the Basic Law.

Deputy President, the biggest difference between the impeachment motion previously proposed by Mr LEUNG Kwok-hung and the motion moved by the 27 Members today is that the latter directs against the ethic conduct of LEUNG Chun-ying after he took office, particularly his performance at the Legislative Council Question and Answer Session. Deputy President, it is a very important point. Some may think that it is no big deal for him to lie to the Legislative Council since he had done so before on several other occasions. Why do we think that the problem is particularly serious when he lied to the Legislative Council and hence warrants impeachment? This is because attending the Legislative Council Question and Answer Sessions is an important duty of the Chief Executive as stated in the Basic Law. He must attend those sessions and answer Members' questions. If he fails to meet the minimum requirements set out in the Basic Law when discharging this duty, he will be in dereliction of duty. Therefore, we should focus on LEUNG Chun-ying's performance at the Council after he took office on 1 July. The detailed facts given in the annexes of today's motion are sufficient to substantiate the charge that Mr LEUNG's ethic conduct has failed to meet the minimum requirements set out in the Basic Law.

Deputy President, the motion is just to make a charge and whether this charge is substantiated should be determined by an investigation committee chaired by the Chief Justice. Today, we are just taking the first step to initiate the impeachment proceeding. As this charge is beyond objection (*The buzzer sounded*) ..... we should move this motion .....

**PRESIDENT** (in Cantonese): Your speaking time is up.

**MR RONNY TONG** (in Cantonese): ..... and the Council should allow this charge to get passed.

**MR CHARLES PETER MOK** (in Cantonese): Deputy President, today, we have exercised the power conferred by Article 73(9) of the Basic Law to jointly initiate a motion to impeach Mr LEUNG Chun-ying, who refuses to resign for his serious breach of law. In fact, in places all over the world, the impeachment proceeding is rarely invoked. However, it is a last resort, or an "imperial sword" for people to fight against government leaders for their misconduct.

Perhaps, some may say that we, the pan-democratic Members, are just putting on a show, or some may consider the impeachment as a kind of political gesture. Yet, I must clarify that impeachment is not a political gesture. Instead, it is a way to set out clearly and specifically the charges made against Mr LEUNG Chun-ying, and invoke a proceeding in a fair, reasonable and lawful manner to remove him from office. Therefore, we may say that this motion is even more solemn than the no-confidence motion that we moved last time.

The constitution has conferred us with the right to impeach the Chief Executive. We, being legislators who represent the people, are duty-bound to activate the impeachment mechanism in this situation. Therefore, I repeat once again: It is our constitutional duty as legislators to take this action when we notice such a serious breach of law. We are not putting on a show at will or making any political gesture.

However, we must face a reality, that is, there is hardly any official in history who has ever been removed from office after the impeachment mechanism has been activated. In Hong Kong, it is also the first time that the Council activates the impeachment mechanism. It reflects that we are not acting at will. Let us take Richard NIXON, the 37th President of the United States, as an example. In 1974, he was about to face impeachment as a result of the Watergate scandal. Yet, at the end, he was only forced to resign before the House of Representatives voted on the impeachment motion. The act of

impeachment had made him the first President to resign in the history of the United States.

A more recent example was Bill CLINTON, who became the 42nd President of the United States in the 1990s. Many people will only remember his sex scandal when his name is mentioned. As he had given a false testimony for this scandal, he became the second President who had to face impeachment in 1998 in the history of the United States. Yet, he consequently remained intact as the impeachment motion, after passing through the House of Representatives, was vetoed by the Senate.

In my view, CLINTON's case is comparatively more similar to the present case of Mr LEUNG Chun-ying, as both scandals were related to personal misconduct. Also, both CLINTON and LEUNG had lied to cover up their faults, hence leading to impeachment. Yet, CLINTON is better than LEUNG in the sense that his case was less serious. After the sex scandal, the popularity of CLINTON remained high because Americans recognized his notable political achievements in the previous six years. In contrast, the popularity rating of our Chief Executive is just moving up and down the pass rate ever since he has assumed office. While his achievement has yet to show, his loads of political missions have caught the limelight. Right now, even his personal misconduct is revealed. Why do we still have to tolerate him and let him stay in his post? More importantly, CLINTON was elected by the people in the United States whereas Mr LEUNG was elected by 689 votes in a small-circle election. Just now, I said that Mr LEUNG's case was more serious than CLINTON's. The reason is that his lie had, directly or indirectly, allowed him to win in the election. Therefore, the issue has gone beyond personal misconduct.

Deputy President, as this case involves a serious integrity problem of a leading public official, I am absolutely in support of this impeachment motion.

Considering the above examples in other places of the world, we know too well that this impeachment motion can hardly be passed; however, we must proceed with what we think is right. Even if the motion cannot be passed, our move still carries weight. We must leave the name of Mr LEUNG in the history of Hong Kong, so that Hong Kong people would remember him as someone who lied about his unauthorized building works (UBWs), putting himself in a predicament; people would remember him as the first Chief Executive to face impeachment in Hong Kong. His case is similar to the cases handled by the Congress of the United States in 1974 and 1998. Today, no one will say that it

was a waste of time for the Congress to impeach the then President of the United States.

Why do we have to record Mr LEUNG's name in history through the Council today? This is because integrity is an ethical obligation of a man. Without integrity, a man will have no ethics. Mr LEUNG Chun-ying is now in the highest position in the SAR as the Chief Executive, but he is found to be a man without ethics who has set a bad example to children. To record his name in history, we can use the story of the "Cheating Executive" to teach the next generation that it is wrong to lie and a liar will always have to pay for his lies. For legislators who blindly support the "Cheating Executive", they are also in the wrong. History will later judge their "royalist" story.

Deputy President, in the mass protest initiated by the Civil Human Rights Front last week, 130 000 people took to the streets to urge Mr LEUNG to step down. However, the Society for Community Organization (SoCO), a frequent participating organization in protests and demonstrations, had decided not to take to the streets on that day. Originally, it was no big deal whether they took to the streets or not. Yet, the SoCO arranged children on its assistance to be interviewed and this has put me in great dismay. I will not name those children, though some newspapers had reported their names. In the interview, a Form Three student said, "I will keep an eye on LEUNG Chun-ying to see if he can make any achievements in the long run. His UBWs will not affect governance." A girl at Primary Six who was reported to have been waiting for public rental housing (PRH) for nine years surprisingly said, "I will not judge him by his behaviour. It is okay even if he has lied." I will not blame the children for these remarks or viewpoints because these values are indoctrinated into them by adults. If we have to blame, we should blame the adults who teach or impact them to make such remarks, as well as our society which is dominated by utilitarianism. With such values in mind, the children will sooner or later go astray no matter how clever they are.

The student said that UBWs would not affect the governance. But the point is: LEUNG Chun-ying had covered up his UBWs and bluffed his way to the seat of Chief Executive. Why do we still trust the man who has cheated us? If he is really good, how come people had to mobilize "LEUNG's fans" at a price of \$250 per person to support him in the rally? Taking into account the extras ..... even the police did not do him a favour as they said that there were only

8 000 people in the rally. Yet, LEUNG Chun-ying's supporters dared to claim that there were 60 000 people in the rally. Regarding this view, to be honest ..... is Mr LEUNG Kwok-hung in the Chamber? Perhaps, they had learnt the supernatural power of Mr LEUNG Kwok-hung so that each of them could create clones of himself/herself to join the rally. They were deceiving themselves and others, weren't they?

The young girl at Primary Six said that she did not care about the conduct of Mr LEUNG. As long as he can help her move into a PRH unit, it does not matter that he had lied. When a young girl like her, who is supposed to be innocent, has become so realistic, I cannot help feeling sad for the future of Hong Kong. Mencius said, "Neither poverty nor humbleness can make him swerve from principle; and neither threats nor forces can subdue him."<sup>1</sup> We should be a person of moral integrity who never succumbs to threats or bribes. This is what adults should teach children. We should not teach them that "being poor is more shameful than being a prostitute" and let go their moral integrity for basic needs. What I want to tell our children is that it is not shameful to live in poverty or to seek help from society. Yet, it is wrong to think that you can get help from a morally deficient Chief Executive by shielding him. Helping the poor is always the duty of the Chief Executive. No matter who is in that position, he/she is obliged to help you. You should not just count on a particular person.

After the mass protest on 1 January, the Director of the SoCO, HO Hei-wah, changed his stance again a few days ago, withdrawing his support to Mr LEUNG and supporting the impeachment against him. As we all know, a year ago, Mr HO Hei-wah openly supported Mr LEUNG. Yet, today, even Mr HO considers that Mr LEUNG has nothing much to be commended for, and he is disappointed with LEUNG's policies as he has not put forth any concrete proposals to help the grassroots. It proves that even "LEUNG's fans" do not think LEUNG Chun-ying is reliable. People who are ordered by the Central Government to support him are now uncertain about whether they should continue to give their support since they worry that once they become "LEUNG's fans", their own integrity will also be queried. They all know at heart how safe his boat is.

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<sup>1</sup> <<http://dj.iciba.com/>>



As a matter of fact, "LEUNG's fans" have just kept saying things like "we should give him some more chances", "the fault of Mr LEUNG is no big deal", "many people have UBWs in their unit" and "give him time to do the real work". These views have reminded me of the remarks given by the loyal supporters of Taiwan's ex-president CHEN Shui-bian in Tainan after his corruption was revealed. At that time, they also held that "Which President is clean?". They accepted what was wrong as right. Do we want Hong Kong people, particularly our next generation, to have this value?

In the two previous motion debates, I had mentioned, and I am going to repeat today that LEUNG Chun-ying has lied repeatedly to cover up his faults, he has actually put his personal gains above public interests. It is something which is very disappointing and outraging.

In the annexes of the impeachment motion, we have clearly explained our justifications for impeaching LEUNG Chun-ying. One of the justifications is that he lied to conceal his UBWs and attacked Henry TANG Ying-yen to win the election, abandoning integrity, equity, honesty and fairness, which are the only merits concerning public interests that have still been retained in the small-circle Chief Executive election. After the election, he continues to pay no heed to credibility which is vital to the Chief Executive and the SAR Government, and he only cares about his interests to remain in office. I think it is unacceptable for a leading official to be so selfish. His practice will have great and serious impact on Hong Kong's politics and future society. Without ethics, there cannot be justice. If a society does not have any moral code, it will not have justice as well. Therefore, we cannot continue to let a man without ethics to be the Chief Executive.

I would like to quote a saying of Mr Martin LEE, a man whom I highly respect, given at the seminar "One Country, Two Systems vs One Country Takes Control" held on Sunday: "It is too long for him to stay in a post he obtained by cheating even for just one day." Honourable colleagues, especially those who sit here as "LEUNG's fans", please seriously consider changing your stance and support the motion.

Deputy President, I so submit.

**DR KWOK KA-KI** (in Cantonese): Deputy President, as Mrs Carrie LAM said earlier on behalf of the Government, this motion is unprecedented. It is the first motion proposing the impeachment of the Chief Executive. Actually, today should be the saddest and most shameful day to all people of Hong Kong. First, our Chief Executive was returned by a small-circle election, with only 689 votes from members of the Election Committee who claimed to be his so-called supporters. Then, our Chief Executive has gone back on his words again and again in the past six months or so. Without the trust of people, a country will fall. I would like to cite a passage from the novel *Romance of the Three Kingdoms* which many people are familiar with. That passage is about how ZHUGE Liang's rebuke had caused the death of WANG Lang. ZHUGE Liang said, "In the imperial court, the corrupted are appointed as officials; before the throne, the beasts are being rewarded. People with a wolf's heart performing dogs' deeds are in power; individuals with slave-like docility ready to kowtow are taking up governing positions". Upon hearing these words, WANG Lang spewed blood and died falling off the horse. Though the *Romance of the Three Kingdoms* is a fiction, the stinging rebuke made by ZHUGE Liang against WANG Lang is so similar to the present situation in Hong Kong. Many Members said earlier that Mr LEUNG Chun-ying was a remarkable talent, and no matter how many lies he told, we should be tolerate him even though he said openly at the Legislative Council that "I have not said that I did not have any unauthorized building works (UBWs)".

I think many of us here are parents. The Chief Secretary for Administration is a parent of two children, though they are already grow-ups. I wonder if Members have noticed that in the New Year march this year, among the hundreds of thousands of people taking to the streets, many people participated in the event with their family members. When some parents were asked why they joined the march, they stated their stance clearly. One parent made a puppet with a long nose and took her daughter to the march. He said, "I come forward today to tell my daughter that telling lies is intolerable. We should not set a bad example for the next generation, we cannot let a person, who obtained the post of the Chief Executive position by deception, remain in the post." There are hundreds of thousands of parents in Hong Kong. They have seen how a person without credibility has obtained the post of the Chief Executive by deception, and that person still shamelessly clings to the position. It is more heart-rending that many Members in the Legislative Council returned

by another small-circle election — the pro-government camp — are defending and protecting him.

Mrs Carrie LAM said earlier that the motion on vote of no confidence would not be passed. It definitely will not be passed. Just take a look at the composition of the Legislative Council and you would understand. Half of the Members in this Council are returned by functional constituencies. Besides, the separate voting system is adopted. Many issues with right and wrong easily distinguishable become obscure when they are presented in this Chamber. Black and white can no longer be differentiated, and right and wrong are being distorted. If Members say that the resolutions made by the Legislative Council can represent the public, I think people of Hong Kong are given a big slap in the face. We will have to wait for the implementation of genuine universal suffrage, and only until then can we or are we entitled to say in this Chamber that the motions passed by this Council represent the voices of the mass majority.

Since LEUNG Chun-ying assumed office, people have been commending him for his great competence. We really have to review what he had done in the past couple of months that broke the heart of the public. He pushed through the implementation of the national education, driving parents, teachers and members of the public to make an unprecedented move to gather outside the Central Government Offices day after day and night after night. Tens of thousands of people staged their opposition to national education, conveying to the community the message that this kind of enslaving and communization education would not develop independent thinking of the next generation, it only aimed at making them become yes men succumbing to dictatorship.

When we reflected the inadequate supply of land for housing development, the Government seized the opportunity to push through the development plan of North East New Territories. Actually, the development plan pushed through by the Government in a brazen manner is not a genuine development plan, but a plan to turn Hong Kong red, trying to merge the future development of Hong Kong with our mother country in the north with a view to accomplishing the political task.

During the election of the Chief Executive, LEUNG Chun-ying had promised the elderly that measures would be introduced to take care of their retirement life, and he had even given his words of granting double "fruit grant"

to them. But once he assumed office, he took a volte-face by introducing the Old Age Living Allowance, tearing the Legislative Council and society apart.

Mr LEUNG Chun-ying has spoken eloquently that he would pay attention to and solve the housing problem in Hong Kong. But what we see is the continual wild surge in property prices after his assumption of office, and rental increase is imminent. Many members of the general public have to live in sub-divided flats. Yet, a Deputy Secretary in his team gave an outrageous remark a few days ago at the Legislative Council that "there is a value for sub-divided flats". What a mean comment! How apathetic and unkind he is.

The livelihood of the general public is deteriorating, yet the MTR Corporation Limited and the two bus companies impose unrestrained fare increases. When the Government said that it had ways to spare the public from paying expensive electricity tariff, the two power companies slapped the Government in the face again by imposing ludicrous tariff increases and projecting possible tariff increase of close to 30% in the few years to come.

In expressing the desire to improve the environment, the Government pushed through the artificial beach project at Lung Mei Beach. When we indicated the need to build more residential flats, the Government immediately introduced the revitalization of industrial buildings, which brings benefits to estate developers but drives away art groups and small and medium enterprises which struggle hard to survive.

Citing the remarks of Mr LEUNG Kwok-hung: the blunders are too numerous to list out. LEUNG Chun-ying has taken office for only a couple of months, yet Hong Kong people have already had enough of the sufferings brought by him. Some people say that his leadership is outstanding. Yet when we look at his team, a Director of Bureau had stepped down shortly after he assumed office, winning him the title of the Director of Bureau serving the shortest term. He then appointed another Director of Bureau in replacement. But the public found out that the new Director of Bureau responsible for dealing with sub-divided flats had all along been operating sub-divided flats. As the Chief Executive indicated his wish to curb property prices, a Member of the Executive Council appointed by him jumped the gun in selling his flats to circumvent the newly imposed stamp duty. When the public demanded

accountability, he appointed a former Member lost in the recent Legislative Council election. To borrow a comment from the well-known current affairs commentary, Allen LI, this is "waste recycling". Despite all his practices and deeds, some people tell us that this is a responsible team with great leadership which can build the future of Hong Kong. I am dumbstruck. I feel sad for officials in the Chamber. They know clearly that they are facing a mess and that the Chief Executive is a frequent liar, yet they still have to embrace him and explain his case.

Some people say that Hong Kong is facing a lot of problems and we need someone to solve the problems. Had they not said so, it might have been better. Such remarks have only made us more worried. In the face of an incapable person with no credibility, how can we not be worried, and how can we not doubt how he would lead us overcoming all the difficulties?

We all know that Hong Kong is a society with entangled interests, where collusion between the Government and the business sector and real estate hegemony are common. The Government is holding a surplus of over \$2,600 billion. The corruption practices of the previous Government and the former Chief Executive are still fresh in the memory of the public. A Government without the trust of people will fall. A government official without credibility should be ashamed to say that he can strive for the well-being of the public. Under this circumstance, Members proposing the motion to impeach the Chief Executive are only fulfilling our duties, but not venting our discontent about any issue or striving for individual interest as claimed by the pro-government camp and Mrs Carrie LAM. There is no question of any personal interest involved.

If we look at the "roadmap of lies" of Chief Executive LEUNG Chun-ying, we cannot but praise with awe his skill in telling lies. Since he bought the house at Tung Tau Wan Road, Stanley in 1979, he had been involved in UBWs. But he dared to fabricate the excuse that it was the first time he dealt with UBWs at Peel Rise, and that he had lost the building plan so he should not be held responsible. Later, he found certain so-called professionals to deal with the UBWs, but it turned out that a brick wall was built to seal the unauthorized space.

The saddest part is that on 16 March last year, he sharply rebuked his rival Henry TANG at the election. In front of 7 million people, he said that Henry TANG had UBWs and had told lies, and he also said it was not merely an issue concerning UBWs, but an issue on integrity. But now, many "LEUNG's fans" point out in this Chamber that it is not an issue on integrity but merely an issue concerning UBWs. Yesterday, a Member from the pro-government camp said that there were over a million cases of UBWs in Hong Kong, so UBWs is not an issue. There is no better example than telling the black white.

If a motion proposing the impeachment of the Chief Executive is not proposed today, we are doing a disservice to our electors and the people of Hong Kong. We cannot tolerate a Chief Executive without credibility to continue to lead Hong Kong. I do not believe that he is the only person capable of leading Hong Kong in improving people's livelihood. All along, Hong Kong relies on the rule of law, the established systems, the Civil Service, credibility and trust, and Hong Kong has so far continued to prosper. Though the first Chief Executive was very incapable and the second Chief Executive was very corrupt, Hong Kong has not fallen, neither has the world collapsed. We trust Hong Kong people, and we trust that the systems established and the Civil Service will be able to keep the governance of Hong Kong on the right track every day. We also trust that when the motion proposing the impeachment of the Chief Executive is passed, we should bring up the issue of universal suffrage again, so that the public can elect a Chief Executive who truly represents the views of the public.

Though we guess that the motion today will not be passed, we believe the public will understand what is going on in the Chamber and in the society of Hong Kong. Not long ago, we have seen on the street (*The buzzer sounded*)  
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**DEPUTY PRESIDENT** (in Cantonese): Your speaking time is up.

**DR KWOK KA-KI** (in Cantonese): ..... the public have written a card to urge LEUNG Chun-ying to step down .....

**DEPUTY PRESIDENT** (in Cantonese): Dr KWOK, your speaking time is up, please be seated.

**DR KWOK KA-KI** (in Cantonese): I now present the card to him. Thank you, Deputy President.

**MR IP KIN-YUEN** (in Cantonese): Deputy President, it has never come to my mind, either before or after the Legislative Council Election, that today, in less than three months after I became a Member of the Legislative Council, I would join the other 26 fellow Members of the pan-democratic camp to activate the impeachment mechanism for the first time since the reunification, so as to charge Chief Executive Mr LEUNG Chun-ying with serious breaches of law or dereliction of duty. He is the first Chief Executive who has to face an impeachment motion. Surprisingly, I can take part in making this record in history; however, I do not feel proud or honour to set this historical record.

In handling and disclosing the issue of unauthorized building works (UBWs), Mr LEUNG Chun-ying has been in serious breaches of law or dereliction of duty, and has lost his integrity. The public in general think that he fails to assume his constitutional duty and he is no longer qualified to hold office as the Chief Executive. Under Article 73(9) of the Basic Law, the Legislative Council of the Hong Kong Special Administrative Region shall exercise its powers and functions, including, *inter alia*: "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 and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the Council. If the committee considers the evidence sufficient to substantiate such charges, the Council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People's Government for decision." Accordingly, there are five stages for the whole procedure from impeachment to the stepping down of the Chief Executive. We are now in the first stage, that is, one-fourth of all the Members of the Legislative Council have jointly initiated a

motion charging the Chief Executive with serious breaches of law or dereliction of duty, and he has refused to resign.

The second stage is the completion of the procedure for "passing a motion for investigation" by the Council, that is, passing this motion today, before the Council "may give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee" for investigation. However, it is not easy at all for the Council to pass this motion. Under the shield of the current system and the pro-establishment camp, coupled with an undemocratic system of separate voting, passing the motion is hardly possible and it is like asking a tiger for its skin.

If we take many steps backwards, even if the pro-establishment camp made a mistake by chance and passed this motion inadvertently today, forming an investigation committee is the third stage as mentioned above. If the committee considers the evidence sufficient and the Chief Executive has refused to resign, it will then report its findings to the Legislative Council. Next, the fourth stage is formally "passing a motion of impeachment by a two-thirds majority of all its members". Given the composition of the Legislative Council at present, together with the narrow electoral base of many functional constituency seats which are not returned under the system of one person one vote, I believe we can at most get to the stage of passing a motion of impeachment without going further, let alone going through the fifth stage, that is, "report it to the Central People's Government for decision".

Deputy President, I do not mind taking the trouble to state the whole impeachment procedure, and I know very well that there is a slim chance of passing this motion, but the pan-democratic camp still proceeds despite the impossibility, because we want to convey a clear and important message to Mr LEUNG Chun-ying. We want to tell him that owing to his handling and disclosing the issue of UBWs, 27 members from the pan-democratic camp and the general public who are in support of the pan-democratic camp have lost confidence in him as his integrity has gone bankrupt. Having lost his governance ability and lacking sufficient credibility, he should step down immediately and should no longer hold office as the Chief Executive.

In the motion that 27 Members have jointly initiated, we have laid three specific charges against Mr LEUNG Chun-ying for serious breaches of law or



dereliction of duty, including, firstly, Mr LEUNG Chun-ying has intentionally given false statements and answers in this Council in dereliction of the constitutional duty under the Basic Law to be accountable to this Council as the head of the Government of the HKSAR; secondly, Mr LEUNG Chun-ying has been in serious breach of the law that the Chief Executive must be a person of integrity, dedicated to his or her duties, and has been in dereliction of his constitutional duty as the Chief Executive in that he has undermined the integrity of his office, has brought disrepute on the office, has betrayed his trust as the Chief Executive, and has acted in a manner subversive of the rule of law and justice, to the manifest injury of the people of the HKSAR; thirdly, in the course of his public office as the Chief Executive-elect, Mr LEUNG Chun-ying has wilfully misconducted himself without reasonable excuse or justification in that he wilfully directed, caused, authorized or permitted the Office of the Chief Executive-elect to make materially false or misleading statements to the public in response to public inquiry about UBWs at his residence. Mr LEUNG Chun-ying has committed a common law offence of misconduct in public office. He has seriously violated the law.

Details of the motion and its annexes have been uploaded onto the website of the Legislative Council, and we have advertised in newspapers for the attention of all people, so as to leave a record in history.

Deputy President, there is a view to help exculpate Mr LEUNG Chun-ying, that is, he can absolve his sins with the Policy Address delivered next Wednesday. In other words, having UBWs is not fatal, Mr LEUNG Chun-ying can make amends. As long as his Policy Address is outstanding and welcomed by the public, there is no need to talk about the blunders of UBWs of Mr LEUNG Chun-ying again. Everyone makes mistakes, UBWs are everywhere in Hong Kong, we should not be rigid in such trivial issues, rather we should look forward. This view has gained popularity lately, and the pro-establishment camp also devotes their efforts to "dropping hints" on the Policy Address. However, will the public agree to this view? Or should we?

In my view, a guilty person must be repentant, otherwise he must be punished to learn a lesson, so that he can realize and rectify his mistakes. If a guilty person does not need to be repentant and be held accountable, will the system be deterrent enough that the future Chief Executives will abide strictly to the rules, be clean and honest in discharging public duties and dedicated to his or her duties? The blunders of Mr LEUNG Chun-ying are not only confined to his

negligence or his UBWs, but also his serious breaches of law or dereliction of duty. As he has lost his integrity, the public's discontent and repugnance cannot be rectified by his political performance or governance. If people have no faith in their rulers, there is no standing for the state, not to mention the Chief Executive. Therefore, to make amends with the Policy Address cannot solve the crux of the problem.

Let us try to look at other democratic countries or regions, if any official made false statements to the congress and the case is substantiated, he will be guilty of serious breach of law or dereliction of duty, and should resign on his own accord without initiating the relevant procedure. Nevertheless, the political structure of Hong Kong is not democratic. As our Chief Executive and Legislative Council Members are not elected by universal suffrage, even if the Chief Executive, returned by a small-circle election, has made mistakes, the Legislative Council which is equally undemocratic will still harbour him. The design of the whole system is to offer excessive protection to the Chief Executive, just like those overly protected children. Excessive protection will give rise to excessive tolerance and connivance, which in turn further lowers the vigilance of the political leader and he will make the same mistakes again and again. One of the most crucial role of the Legislative Council is to monitor the Chief Executive at all times, remind and censure him or her effectively, so as to get the policy of the Chief Executive to the right track.

Today, in response to the call of conscience, the pan-democratic Members have best fulfilled our constitutional duty to initiate the procedure to impeach Mr LEUNG Chun-ying. I hope this motion today can be passed to move onto the next stage of the impeachment procedure, so that the public can maintain their confidence in the SAR Government and the constitutional system of the Chief Executive, and the executive authorities can remain vigilant at all times.

Lastly, I wish to take this opportunity to thank Mr Dennis KWOK and other fellows for their efforts. They have written the documents relevant to this motion with a serious mind and clarified a lot of important concepts, which is conducive to the whole impeachment procedure, and gives greater historical significance to this motion.

I so submit.

**DR HELENA WONG** (in Cantonese): Some said that pan-democratic Members have made "three dishes with one chicken"; that they insist to proceed with this procedure and have "impeded the advancement of the world". Yet, today, we are dealing with a solemn matter about the Chief Executive's personal integrity.

Mr LEUNG Chun-ying attacked his election opponent, Mr Henry TANG, at the forum of the small-circle Chief Executive Election in March 2012. He said, "Many people said that the problem about your UBWs was not simply a UBWs issue; rather, you openly lied to the public and concealed your UBWs. Not until the media published full reports with pictures on your UBWs did you honestly admit that you had concealed the fact." Well, they have swapped positions today. We want to ask: "Chief Executive, do you also have a UBWs issue? However, the problem about your UBWs is not simply a UBWs issue; 'you lied' and you have obtained the post of the Chief Executive through unscrupulous lying. You already knew that you have UBWs when you were running in the election."

However, Mr LEUNG Chun-ying mentioned in his public statement to Members of this Council on 23 November 2012 that, about half a year ago — some time around 2010 or 2011 — he invited two groups of journalists to have lunch at his home and he told them that there were no UBWs at his residence when he was asked if there was any UBWs. He also said when he purchased the property, he had invited two lawyers and an architect/surveyor to conduct an inspection and they confirmed, upon inspection, that there were no UBWs. He told the truth based on his understanding at the time and he was not under any pressure, and there was no need for fabrication. Mr LEUNG Chun-ying reiterated that he was the one who bought the property and he did not want other people to be implicated, including the professionals concerned. He would take full responsibility.

Nevertheless, he has not disclosed the names of the two lawyers and the architect/surveyor in his statement. Do these persons really exist? If there are witnesses, why are their real names not provided? Why are the names of the two lawyer firms not provided? Is that false evidence? Why had he openly stated that there were no UBWs while he actually covered up the big hole with a wall? Even the Buildings Department pointed out that, concealing the big hole with the brick wall was not a correct approach to lawfully solve the UBWs issue.

Chief Executive, you are lying; this is not a problem about UBWs but a problem of integrity. He keeps saying that he will be open and transparent but he has deliberately made a false statement in an attempt to deceive the public and this Council. His integrity has gone bankrupt.

We are going to impeach the Chief Executive today. We have to do so disregarding whether this procedure will be officially approved. I received a lot of emails from the electors and the public these few days, asking me to vote in favour of the motion to impeach the Chief Executive. Today, senior officials, Policy Secretaries, Directors of Bureaux, the royalists and those from the pro-establishment camp have either gone missing or asked us to have mercy and compassion and let LEUNG Chun-ying off. Why have 27 pan-democratic Members made such a move to propose this motion of impeachment today? The answer is simple, we believe that "There is no standing for the state if the people have no faith in their rulers". Honourable colleagues may have heard me talk about feminism, but they have rarely heard me talk about the *Analects* of Confucius. I do not have a very solid foundation in Chinese literature and culture, but since some Honourable colleagues have remarked that "There is no standing for the state if the people have no faith in their rulers", we might as well discuss the matter further.

The above remark "There is no standing for the state if the people have no faith in their rulers" is from Chapter 7 of *The Analects • Yan*, on Zi Gong's questions about government. At that time, Zi Gong asked Confucius how to properly govern the state and conduct public affairs, and Confucius replied: "The requisites of government are that there be sufficiency of food, sufficiency of military equipment, and the confidence of the people in their ruler."<sup>2</sup> These are the three most important elements in the conduct of public affairs. Nevertheless, Zi Gong had not given up and he again asked Confucius, "If it cannot be helped, and one of the remaining two must be dispensed with, which of them should be foregone?" Confucius said, "the military equipment", meaning that military equipment could be dispensed with. The requisites of government are that there be sufficiency of food and the confidence of the people in their ruler. Zi Gong, being odd, wanted to get to the bottom of the matter, so he again asked Confucius, "If it cannot be helped, and one of the remaining two must be dispensed with, which of them should be foregone?" Confucius answered "The

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<sup>2</sup> <<http://ctext.org/analects/yan-yuan>>

military equipment" the first time and he answered, "Part with the food" this time, meaning that sufficient food could be dispensed with. Why did Confucius advise dispensing with military equipment and then food? Was he really foolish? The state would certainly perish without military equipment and food. Yet, Confucius believed that military equipment and food could be dispensed with but not the confidence of the people in their ruler. Why? He said, "From of old, death has been the lot of men; but if the people have no faith in their rulers, there is no standing for the state."

Since ancient times, without food, everyone will have the same fate, that is, death. However, if the ruler of the state does not have integrity, the people will no longer trust the state, and the state will not get a foothold and will perish. So, since ancient times, according to the traditional wisdom in China, military equipment and food could be dispensed with, but not the confidence of the people in their ruler.

In traditional Chinese culture, integrity, benevolence, justice, courtesy and wisdom are considered as the most important codes of ethics. As the ancient saying goes, "Sincerity is the way of Heaven. The attainment of sincerity is the way of men"<sup>3</sup>; sincerity is also the way of business. Do we think that we can now lightly disregard these important codes of ethics? Being honest and trustworthy is the way of man and the traditional virtue of the Chinese nation. This virtue is greatly valued in Chinese traditional culture, it is also emphasized in *The Analects* of Confucius that integrity is the way of man, the way of governance and the way of business. In fact, at all times and in all countries, it is highly emphasized that rulers of the state, political rulers or even ordinary members of the public should be persons of integrity.

Let us also refer to the *Bible*. It is stated in the *Bible* that integrity has a higher value than wealth. This is the guiding principle for conducting ourselves in society, engaging in politics and business. Adhering to integrity is a moral bottom line that cannot be crossed. People without integrity may have momentary gains, but they will definitely suffer from long-term losses. A government and regime without integrity will certainly not last long because it cannot win over people's heart and their support. Only a government or regime

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<sup>3</sup> <<http://ctext.org/>> (Mengzi • Li Lou1)

which can win popular support can rule Hong Kong effectively, benefit the people and strive for the well-being of ordinary people.

There is no standing for the state if the people have no faith in their rulers. We need not elaborate on the importance of people's trust to regional leaders and the country. Yet, pro-establishment Members are harbouring and supporting LEUNG Chun-ying today, asking us to keep supporting him as the Chief Executive on fallacious grounds. Some argued who would be the Chief Executive if LEUNG Chun-ying had left, as his successor might be even worse. This argument is an insult to Hong Kong people. Some said that we might as well be so benevolent as to give LEUNG Chun-ying another chance. Though he has made a mistake, we should let him off and give him an opportunity to right his wrong, make amends for his previous faults, demonstrate his competence and improve people's livelihood. As we have already said, there is no standing for the state if the people have no faith in their rulers. How can LEUNG Chun-ying improve people's livelihood if he does not have integrity? How can LEUNG Chun-ying make 7 million Hong Kong people believe that his commitments would be honoured if he does not have integrity?

Our discussions today are about political ethics and individual ethics. If the pro-establishment camp and the royalists, including LEUNG Chun-ying, think that we can muddle along and act as if nothing had happened, we are violating law and order.

The Chief Executive, as the highest and most powerful leader of the Special Administrative Region, should set a good example. If he is not righteous, a crooked stick will have a crooked shadow. If we gently let him off, we will undoubtedly give 160 000 civil servants in Hong Kong a message that a person without integrity is not important, what matters most is that he can get the work done. Is this a violation of law and order? Will this ruin the integrity of the Government as a whole?

The Director of Buildings recently gave evidence before the Legislative Council and we saw how stern he looked and how embarrassing he was. It was so difficult to support LEUNG Chun-ying and he was caught in a dilemma. When Members asked him whether there were double standards, he replied that he neither belonged to the TANG's Camp nor the LEUNG's Camp. When

Members also asked why the Buildings Department (BD) investigated the TANG Camp in such a detailed manner, even tearing down the concrete wall; but when LEUNG Chun-ying did not reply to the four letters sent by the BD, it reacted as if nothing had happened. Had the BD torn down the walls in LEUNG Chun-ying's home for examination or taken away some concrete for laboratory tests? Had his witnesses been questioned to verify if they really existed? Did LEUNG Chun-ying's UBWs involve any criminal and deceptive factors? Were there double standards? He has not answered all these questions so far.

As a university lecturer in Liberal Studies, I do not want to give children and students today the message that integrity is not important, and what matters most is to get the work done, even by hook or by crook, or by telling lies. If I give this message today, this will be the saddest day for the Legislative Council and the most serious warning about political and moral degeneration in Hong Kong.

With these remarks, Deputy President, I support the motion on impeachment of the Chief Executive and I also request for a one-person-one-vote election of the Chief Executive in 2017.

**MR ALBERT HO** (in Cantonese): Deputy President, it is a historic move for us to debate and vote on a motion to impeach the Chief Executive, LEUNG Chun-ying, in this Council today. This motion is certainly different from the motion of no confidence in the past. The motion of no confidence moved in the past might be based upon our overall evaluation of the Chief Executive's political judgment, abilities or even moral conduct, and asking for his resignation. However, today's motion of impeachment is activated according to the procedure specified in the Basic Law, and it is serious and solemn. I would like to thank the group of lawyers again for their assistance in drafting the impeachment documents. I thank Senior Counsel, Martin LEE, Mr Dennis KWOK and other lawyers for they have exhaustively set out the justifications and the facts, based on which we can point out that LEUNG Chun-ying does not meet the basic and minimum requirements of the Chief Executive. He is not a person of integrity, dedicated to his duties, thus it is difficult for him to gain the trust of society and of this Council, let alone to lead Hong Kong in the future. So, we have to take up an important political responsibility and set a historical record today. No

matter this motion is passed or not, we believe the remarks made by each and every Member will be put on record.

So far, LEUNG Chun-ying's comment on the issue of unauthorized building works (UBWs) was that he had not carefully dealt with the issue and there was gross negligence on his part. But, we all know that this is not the nature of the incident. As what he had said in censuring Henry TANG, the issue involves the problems of integrity and lies. He has not just told lies; he has repeatedly told lies and used a lie to cover another. He told lies before he ran for the election and during the election campaigning, he kept on telling lies after he was elected and after he had assumed office. These lies have been set out in detail in the impeachment documents. These lies do not just involve his conduct as an individual but also how he "ascended" to a higher position as a public officer, as well as how he told lies to allay the public's doubts about him. He told all these lies in front of the public, through the media and at the solemn Question and Answer Sessions of the Legislative Council. We find it difficult to accept his conduct.

Deputy President, if a media organization, *Ming Pao*, had not bravely exposed through aerial pictures the UBWs at LEUNG Chun-ying's residence after the Chief Executive Election, which eventually led to the uncovering of more than 10 UBWs at his residence during the time of the election, I believe the whole incident would still have been concealed up until today, and I do not expect that he would deal with the problem according to law.

This incident is very serious. As one of the candidates in the Chief Executive Election, I have even stronger sentiment about this incident. At the election forum, I saw how LEUNG Chun-ying rightly accused Mr Henry TANG that his UBWs was not simply a question concerning UBWs, but he lied and his integrity was called into question. What was in my mind at that time? I thought, "That's bad, Henry, your Achilles' heel had been repeatedly hit, you are doomed. LEUNG Chun-ying was really harsh". I had never thought that LEUNG Chun-ying was acting like a thief crying thief. He told reporters that there were no UBWs at his residence half a year ago, and I would never have imagined that he knew clearly that he was telling a lie when he accused Henry TANG. I would like to quote Henry TANG's words: "How can this be possible!"



Deputy President, after it had been found that there were UBWs at LEUNG Chun-ying's residence after he won the election, he initially adopted the tactic of "hypocritical rhetoric" to mislead the public; he delayed in replying, denying repeatedly and he eventually said that he had already dealt with all UBWs, if they ever existed. I am not going to dwell on the details. He erected a brick wall to conceal a 300-sq-ft unauthorized space in the basement of his residence, and then said that there were no UBWs at his residence. This is a symbolic act that he erected a wall to cover up many unknown lies. Precisely for this reason, when the BD staff inspected his residence in June, LEUNG Chun-ying deliberately concealed and evaded the fact that he had an illegal room in the basement — the concealed Chamber of Secrets. He had not handled the matter in an open and transparent manner and he had not immediately asked the BD for instructions about how the matter should be handled. Instead he did not respond to the four letters of inquiry from the BD. According to his later explanations — we only knew the facts afterwards — he was worried that the judicial proceeding might be affected if he responded to the BD's inquiries because I, Albert HO, had filed an election petition. For the same reason, he turned down the community's strong request at that time to answer questions about his UBWs in an open and transparent manner.

Actually, the media had made a very fair comment at that time and pointed out that even if there was a judicial proceeding, it would not be a problem so long as he was telling the truth. The truth should be of the same version; no matter he was telling the truth in the Legislative Council, in court, to reporters or to members of the public. Was there any problem then? Would the Judge and would I forbid him to tell the truth? As a matter of fact, I now understand why he did not make any comments or why he did not respond to the BD, that is because he did not want further evidence to be disclosed which might affect his chance of winning the lawsuit. Just think, if he had responded to the four letters of the BD, his replies would be admitted as relevant documents of the election petition. If he really had to defend himself, the relevant documents would have to be tabled in court, and the Judge would surely find out that the representations he made at the election forum — his accusations of Henry TANG — were all lies.

As all these incidents were under his manipulation, we find it even more difficult to forgive him. Deputy President, a remark made by LEUNG Chun-ying at a Council meeting in December revealed what was in his mind — it

was a Freudian slip. He said, "I have never said that I did not have any UBWs". This certainly sparked public outcry because he clearly stressed that he did not have any UBWs. When he knew the seriousness of the situation the following day, he added that he had never said so at the election forum. What he meant to say at the election forum was that knowing very clearly that he had UBWs, he still attacked Henry TANG for his UBWs. Owing to his strong and fierce attack of Henry TANG, Henry TANG's reputation was completely ruined. Hence, LEUNG Chun-ying could reverse the situation of the election and stole the position of the Chief Executive.

All Honourable colleagues should be aware that he knew very well about the UBWs at his residence. Since he has not properly dealt with the UBWs during the election, they have unlawfully existed all along. He said that he had never said that he did not have any UBWs; he knew there were UBWs but he had deliberately not mentioned about them. This is the best and clearest evident to show that he is morally bankrupt. If anyone thinks that some of the comments that I have just made or the facts set out in the impeachment documents are untrue or unfair, or should be challenged, even if this motion is passed today, an investigation will have to be conducted by a team led by the Chief Justice of the Court of Final Appeal. The investigation may then do him justice if he really has the courage to face the facts — I believe he would not have the courage — and I trust that pro-establishment Members, the officials supporting him and a group of LEUNG's fans will not have the courage to face the facts. They just want to cover up the facts, just like LEUNG Chun-ying erecting a wall to cover up his UBWs, that is, out of sight, out of mind.

Deputy President, the greatest fear of Hong Kong people today is that Hong Kong is becoming increasingly like the Mainland, that is, the communization of culture. Not only Mainland officials are pointing fingers at and interfering with our internal affairs, or moving the Mainland system to Hong Kong; more unfortunately, we will be influenced by some unhealthy trends on the Mainland. The political culture under autocratic rule only emphasizes power and focuses on the ends, not bothering about the reasons, the work procedures and practices. Violence will be used when necessary and in times when violence is not used, lies will be told in an organized and consistent manner. These practices of LEUNG Chun-ying give us an impression that he has slowly adopted such a style. How can the public have confidence? If we rely on the Chief Executive, whose integrity has been repeatedly called into question, to

continue to lead us in facing the difficulties in the future, we will only find that it is extremely difficult. In the future, LEUNG Chun-ying will only hear the opposing voices and a chorus of boos wherever he goes; and many people will doubt if he has the integrity and creditability. He will be facing questions and obstacles. Hence, I hope the royalist Members will no longer connive and harbour LEUNG Chun-ying.

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

**DR JOSEPH LEE** (in Cantonese): Deputy President, the Chief Executive of the Special Administrative Region (SAR) has repeatedly made false statements and responses to the Legislative Council and even to the public. He has seriously violated the law. He even instructed the Office of the Chief Executive-elect to make false statements and responses, attempting to deceive the public, which is a serious breach of law and dereliction of duty. Therefore, I support this motion I have jointly moved, hoping to give the Chief Justice of the Court of Final Appeal a mandate to form an independent investigation committee to investigate after the activation of the mechanism, and take the second step of impeachment. It is uncertain if this motion would be passed today.

Honourable colleagues have already stated our allegations. On the first allegation, we would like to point out that, the Chief Executive should be accountable to the Legislative Council and he should honestly reply all questions put to him by Legislative Council Members. However, the Chief Executive had not frankly answered Members' questions on unauthorized building works (UBWs) at the Legislative Council, and he had not briefed this Council on the details. On the contrary, he deliberately made false statements and responses, showing no respect for the Legislative Council. The Chief Executive has violated his constitutional responsibility.

In answering to Members in this Council, the Chief Executive keeps telling lies, attempting to absolve himself. He said repeatedly that he has not deliberately concealed the facts or deceived people in the UBWs incident. Even though the Chief Executive clearly knew that there were UBWs in his basement, he had not told Members when he answered the relevant questions in mid-July. In late November when he was forced to reveal the relevant details to the public,

he just said that he had handled the matter immediately. Nonetheless, he had not responded to the four letters sent by the Buildings Department (BD), asking him for the relevant information. Evidently, he had not handled the matter immediately as claimed. When he was asked the relevant questions again in December, he repeatedly mentioned that he had not cheated anybody or concealed anything. In fact, he had concealed many times that there were UBWs in the basement.

Furthermore, he repeatedly stated in the Legislative Council that "I have never said that I did not have any UBWs". As we all know, he already pointed out in May that there were no UBWs on his properties, and that this situation had been confirmed to him by an architect/surveyor. How could the Chief Executive deny that he had given such a remark? My speech seems confusing, but his remarks were actually very confusing. We have a clear idea whether his remark is true or false. In treating the Legislative Council this way, does the Chief Executive think that this Council is not worthy of respect?

The Chief Executive insisted that he had not concealed anything from the public but he was not honest in dealing with the UBWs issue. If he had not made a false statement, deceived the public or concealed anything from the public, I really do not understand what constitutes deception and false statements, and I am not sure about the criteria concerned. Obviously, the Chief Executive completely disrespects the powers and responsibilities of the Legislative Council and he has not practically fulfilled his responsibilities to this Council. He repeatedly failed to respond honestly to the questions asked by Members of the Legislative Council, and he had even deliberately concealed certain things. The Chief Executive simply ignored the Legislative Council, violated his constitutional responsibilities and failed to fulfil his responsibilities to this Council. How can the Chief Executive who tells lies in this Council fulfil his constitutional responsibilities and be accountable to Members? Evidently, he has violated the first paragraph of Article 60 and Article 64 of the Basic Law.

The second allegation is about the Chief Executive's conduct to delay, impede and cover up in respect of his UBWs. After the existence of his UBWs had been uncovered, he had failed to respond positively and he had evaded the matter. More seriously, even though he was well aware that he had violated the law, he attacked his opponent in the Chief Executive Election that his handling of

UBWs indicated the problem of integrity. As he won the election by unfair means, undermining a clean and fair election, it is really doubtful whether he is qualified to become the Chief Executive.

After winning the election, the Chief Executive intended to interfere with the freedom of the press. In June, upon learning about a report in *Ming Pao* on his UBWs, he gave the Editor-in-Chief a call afterwards. It is utterly unacceptable for a Chief Executive-elect to interfere with the freedom of the press by dishonest means, completely contrary to the provisions that the Chief Executive must be a person of integrity, dedicated to his or her duties.

Furthermore, after finding that there was an illegal room in the basement, the Chief Executive had a brick wall erected to conceal the room, without reporting the matter to the BD. He had not taken the initiative to report the matter and he even said that he had already dealt with it. This is more obviously an intention to conceal. Also, he had not taken the initiative to provide information when the BD inspected the premises, which was evidently in violation of the Buildings Ordinance. How can a person who has violated the law be a law-abiding and upright Chief Executive?

The Chief Executive had also repeatedly concealed the facts when he responded to the concerns of the media and the public. He has failed to set a good example, and he has manipulated the art of double-talk to deceive the public and not acting in a proper way as required of the Chief Executive. These behaviours have seriously violated the provisions that the Chief Executive must be a person of integrity, dedicated to his or her duties. How can the public accept a Chief Executive who has violated the Basic Law and failed to comply with the provisions that the Chief Executive must be a person of integrity? The above comments are related to the second allegation, proving that he has violated Article 47 of the Basic Law.

Regarding the third allegation, we have obviously seen that, the Chief Executive-elect had repeatedly instructed the Office of the Chief Executive-elect to intentionally make or permitted the Office of the Chief Executive-elect to make misleading statements in response to public inquiries about the UBWs at his residence. In response to the inquiries about the UBWs, the Office of the Chief Executive-elect said that they were in existence when Mr LEUNG purchased the properties, and the area was less than 200 sq ft. As it later turned out, all these

statements were untrue and they were contrary to the facts. We believe these are not inadvertent acts, but they are deliberate acts to conceal certain facts and deceive the public. It is seriously wrong for a public officer to have such misconduct and make false statements. Obviously, this is misconduct on the part of a public officer.

The Chief Executive has taken up a very important post but he has repeatedly concealed certain facts and made false statements. He has not only violated the law but also violated the provisions that the Chief Executive and public officers must be persons of integrity, dedicated to their duties. We trust that it is necessary to activate the impeachment mechanism and form an independent investigation committee to thoroughly investigate if the Chief Executive has serious breaches of law and dereliction of duty.

(THE PRESIDENT resumed the Chair)

President, though this motion will most probably not be passed today, we hope that the Chief Executive would learn a lesson from the incident and be admonished.

Last but not least, I have just read a book, and I believe those engaging in politics are also interested in reading this book. The book is entitled *Zizhi Tongjian* (literally *Comprehensive Mirror to Aid in Government*), and there is a section on integrity. I would like to remind the Chief Executive of the importance of integrity. Please allow me to spend some time quoting the words of SIMA Guang in *Zizhi Tongjian* concerning "being caught in one's own trap".

In the vernacular version of *Zizhi Tongjian* — I was not reading the classical version — SIMA Guang says that credibility is a treasure for an emperor. The country relies on the people for defence and the people rely on credibility for stability. An emperor without credibility cannot convince his people, and a country cannot be maintained without the people. Therefore, in ancient times, those who became emperors did not deceive the people, those who established dominance did not deceive neighbouring countries, those who were good at running the country did not deceive the people, and those who were good at leading the family did not deceive family members.

SIMA Guang further says that only the fool acts in the opposite way to deceive the people and even deceive brothers, fathers and sons. If a superior does not trust his people, and the people do not trust him, they will be at odds and will be doomed to failure. The petty advantages gained by deceiving cannot treat fatal injuries, does it not make us sad that there are far more losses than gains?

SIMA Guang further says that, many years ago, Cai Hang Gung<sup>4</sup> had not violated the covenant with COU Mut, Zeon Man Gung had not gone after the interests of attacking the land of Jyun, Ngai Man Hau had not abandoned the appointment to go hunting with people from Jyu, Ceon Haau Gung had not taken back the generous rewards to the person who moved the wooden pole. In the troubled times when these four emperors and the people were fighting and contending each other, these emperors dared not forget about establishing credibility to win the support of the people. Should the governors of nowadays in time of peace not make greater efforts in this regard?

I hope SIMA Guang's remarks in *Zizhi Tongjian* would help the Chief Executive understand the importance of integrity.

Thank you, President.

**PRESIDENT** (in Cantonese): Just now, the person cited by the Member should be Cai<sup>4</sup> Wun<sup>4</sup> Gung<sup>1</sup>.

**MR KENNETH LEUNG** (in Cantonese): President, I have not drafted a speech today and I just want to express my views on this incident.

As a Member from the professional sector returned by functional constituencies, I know that many pan-democratic Members have made criticisms about functional constituencies. I support this motion proposed by Mr LEUNG Kwok-hung and 27 pan-democratic Members today because we, members of the

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<sup>4</sup> Dr Joseph LEE had mispronounced the word "wun<sup>4</sup>" as "hang<sup>4</sup>". The names of other persons and places in this paragraph are denoted in Cantonese.

professional sector, should make independent, professional and objective judgment, and I realize after much thought that it is essential to support this motion today.

Integrity is the highest standard of the professional conduct of the accounting profession. Without integrity, our professional work will not be accepted by our clients. Integrity is not just a moral standard but also the code of conduct to be observed by politicians, statesmen and persons engaging in politics.

Today is a very serious day since the reunification, and this is the first time Members propose a motion under Article 73(9) of the Basic Law charging the Chief Executive. I support Mr Ronny TONG's remark just now that this motion is not an impeachment motion. This motion making allegations moved under Article 73(9) of the Basic Law is just the first step in a series of procedures. If this motion is supported 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, the second stage of the procedure will commence. The Chief Justice of the Court of Final Appeal will be given a mandate to form and chair an independent investigation committee to investigate the incident concerning Mr LEUNG Chun-ying's unauthorized building works (UBWs) and his false statements and conducts after the UBWs incident.

On a number of occasions, Mr LEUNG Chun-ying has said that he will work in an open and transparent manner and bear responsibilities. If this motion is passed after voting, he will be given a very good chance to be open and transparent to all Hong Kong people. The investigation committee to be formed by the Chief Justice of the Court of Final Appeal will give him the best chance to handle the matter in an open and transparent manner.

After the existence of UBWs at the Chief Executive's residence has been disclosed, my Honourable colleague, Mr Albert HO, attempted to file an election petition against Mr LEUNG Chun-ying. This Council also attempted to move a motion of no confidence in the Chief Executive and invoke the Legislative Council (Powers and Privileges) Ordinance to investigate the incident concerning the Chief Executive's UBWs. Why have Honourable colleagues persevered in doing so? We do not want to waste the time and money of this Council and of



the taxpayers; we have persevered in seeking justice simply because this incident is really serious and has far-reaching impacts on the whole leading team of the SAR.

We do not want to put up a "political show" in taking these actions. On the contrary, these actions have been taken to make the Chief Executive directly face up to his constitutional, political and moral responsibilities for the UBWs incident and the false statements he made, as well as the lies he told after the incident. If the Chief Executive of the SAR does not need to bear the constitutional, political and moral responsibilities for his conducts, the core values of this city and the SAR will be shattered, the community will no longer insist on seeking fairness and justice, and there will not be a good example for the public. How are we going to teach the younger generation when even the Chief Executive behaved that way?

The impeachment motion proposed under Article 73(9) of the Basic Law is the last resort of the Legislative Council under the Basic Law for the checks and balances of the executive authorities and the Chief Executive. I clearly understand that, to pass this motion is just the first step within the current framework of the Legislative Council, and the chance to pass this motion is very slim. But, I clearly know that the majority of Hong Kong people and my electors have reached a consensus about the conduct and remarks of Mr LEUNG Chun-ying in the past few months. So, I should be responsible to all Hong Kong people and my electors to make a commitment and support this motion moved by Mr LEUNG Kwok-hung.

When a person with no integrity and fine moral quality serves as the Chief Executive, he is doomed to failure no matter how brilliant the direction of his policy blueprint is. Will competent persons of moral quality and integrity be willing to work with someone low in moral quality and integrity? Will they whole-heartedly trust him? Will members of the public trust the words and acts of the Chief Executive? Will Honourable colleagues of this Council question again in the future if the Chief Executive is qualified to exercise public power? Will the Chief Executive have ulterior motives in exercising public power? This Council will strongly guard against any other intentions in the initiatives to be proposed by the Chief Executive in the future. All these will make the Chief Executive's governance difficult and riddled with obstacles.

Some Honourable colleagues have said that we should give Mr LEUNG Chun-ying a chance as he may be a competent Chief Executive. As Mr Ronny TONG has commented, this motion has nothing to do with competence. An Honourable colleague has just cited an example about QIN Shihuang and Adolf HITLER who were competent. Nevertheless, this motion definitely has nothing to do with competence because it is stated in Article 73(9) of the Basic Law that this mechanism may be activated if the Chief Executive is charged with serious breach of law or dereliction of duty. The major terms are "serious breach of law" and "dereliction of duty". It is specified in Article 47 in Chapter IV of the Basic Law that the Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties. I would like to discuss dereliction of duty. Different wordings are used in the English and Chinese renditions of the Basic Law, and the term "dereliction of duty" is used in the English rendition. According to my limited knowledge of law, when a public officer or a Chief Executive exercises public power for his personal advantages; which is not *bona fide* exercise of power but *mala fide* exercise of power, and the allegation of dereliction of duty is basically established.

During a recent debate on the motion of no confidence in Mr LEUNG Chun-ying, Mr LEUNG Chun-ying's Policy Address was held up high by a number of Honourable colleagues, saying that nobody would implement those policies if the Chief Executive was evicted. In fact, nobody in this world is irreplaceable, including the incumbent Chief Executive. We have a very good civil service system and a sound system of the rule of law. We also have political parties with competent persons who have the foresight and vision in this Council; thus, we have no trouble finding the right person to fill the vacancy. I also think that Mr LEUNG Chun-ying's election manifesto in the Chief Executive Election was a piece of work created collectively, not solely by Mr LEUNG Chun-ying alone.

Sir David AKERS-JONES queried that since Mr LEUNG Chun-ying had apologized 21 times to the public for this incident, why should we still be so harsh to him. Why cannot we be more tolerant? I can explain to everyone that this is definitely not the criteria for determining whether we should be tolerant or harsh.

I would like to tell a story. When I attended an interview for my first job in London in 1985, I was interviewed by the first female partner of the world's

largest accounting firm and her name was Moira BLACK. I was very anxious as it was my first job. After interviewing for half an hour, I asked her, "As your company hires the top graduates in the country; how do you judge the future performance and conduct of these graduates in your company?" Her answer really surprised me and made me understand that extremely high criteria were set in this world. She answered, "It is your duty to do your best in this company and we also expect each of you to do your best." I also want to tell the Chief Executive: it is your duty to do your best and every people in Hong Kong expects you to do your best.

This partner who interviewed me continued, "We appraise employee's performance each year. Before promoting professional staff, we will consider whether they have made mistakes, what mistakes they have made and how they have rectified the mistakes made." What she said dealt a heavy blow to me, a new entrant to the trade, and I wondered why the mistakes I made would be taken into consideration. After I have worked in this company for seven years, I found that this was really the approach of the company and it was the duty of every person to do his best. Hence, it is not harsh to adopt such an attitude towards Mr LEUNG Chun-ying. I also said a while ago that the second step is that the Chief Justice of the Court of Final Appeal will form an independent investigation committee. The Chief Justice can do the Chief Executive justice if he considers that the Chief Executive has done something right.

I so submit, President.

**MR DENNIS KWOK** (in Cantonese): President, today is a historic day, but it is also a sad day because Members have moved a motion to impeach the Chief Executive for the first time since the establishment of the Hong Kong Special Administrative Region (SAR).

President, as one of the Members who drafted this impeachment motion, I have the responsibility to explain to the public the contents of our allegations, our analyses and some underlying meanings.

President, the first allegation is the most important allegation in the impeachment motion. It is about the fact that the Chief Executive, Mr LEUNG

Chun-ying, has made false statements and inaccurate responses to this Council. I am going to briefly make a few key points on the details of the incident.

As LEUNG Chun-ying mentioned in the written statement published earlier, he knew that there was an illegal servant's room in the basement of his residence in October 2011. When he attended the Question and Answer Session of this Council on 16 July and responded to Members' questions, he said, "I wish to reiterate that, in regard to this incident, there was gross negligence on my part, but I have never concealed any possible contraventions. Instead, I sought to deal with all the problems immediately by dismantling some of the UBWs in one or two days." While he said that "I have never concealed anything", we later found that he admitted in the written statement published in November 2012 that there was an illegal room in the basement. In other words, he deliberately told a lie in July last year when he told this Council that he had never concealed anything, and he made false statements and inaccurate responses to this Council.

President, the most important factor for consideration when we drafted this document is what conduct constitute "dereliction of duty" as provided in the Basic Law and how "dereliction of duty" should be defined. Having made reference to the parliamentary systems of different countries in the world, we believe there are, in general, certain bottom lines. In fact, the bottom lines in the parliamentary systems in the United Kingdom, the United States, Australia or Canada are the same, irrespective of whether they are the Westminster parliamentary systems or the presidential systems, and they are associated with integrity.

Under Articles 60 and 64 of the Basic Law, the head of the Government of the SAR shall be the Chief Executive and he must be accountable to the Legislative Council. In lying to the Legislative Council, the Chief Executive has failed to be accountable to this Council and he has even offended this Council, which sufficiently constitutes dereliction of duty. It is undeniable that, no matter how sound a system is, it will eventually be destroyed if somebody does not respect it. The Chief Executive has blatantly lied to this Council, a disrespect for the Legislative Council and our system, thereby undermining the constitutional system.

Just think, if government officials can lie to the Legislative Council and mislead the public and Members, how can we, Members of the Legislative Council, meet the requirements in the Basic Law and perform our functions as representatives of the people in monitoring the Government's performance? When the legislature fails to be accountable to the executive authorities, systems such as the separation of powers and checks and balances will inevitably collapse. This is precisely why some countries with very long constitutional history will establish standards to prevent the constitutional impacts.

Take the United Kingdom as an example, the following statement is quoted from Parliamentary Practice by Erskine MAY: "It is of paramount importance that Ministers give accurate and truthful information to Parliament, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead Parliament will be expected to offer their resignation to the Prime Minister."

In other words, there is a constitutional tradition in the British Parliament that Prime Minister or any principal official shall resign if it has been confirmed that he has lied to the Parliament or made untruthful statements. This tradition became a legal provision in the 1990s. A minister stepped down because he was lying in the Profumo Affair in 1963. When the extramarital affair of the Minister of the Army, John PROFUMO, was exposed, he repeatedly denied the relationship when he was questioned by the House of Commons. The affair was eventually exposed and he took the blame and resign because he violated the constitutional tradition of giving truthful information to the Parliament.

In 1998, President CLINTON of the United States was impeached because of a sex scandal. In 2006, Gordon Nuttall, the Minister for Health in Australia was impeached after it had been confirmed that he had lied to the Parliament. Since a constitutional convention has not been established in Hong Kong, and this is a golden opportunity to do so. If the Chief Executive does not have to bear any political responsibility or consequence after it has been confirmed that he had lied to this Council, we must reflect on what role model and precedent we have set.

President, if the Chief Executive and the principal officials can blatantly lie to the Legislative Council without having to bear any political responsibility, and we still close our eyes to their faults, we then have to ask ourselves: how far can

the conduct of the officials deteriorate until they become unacceptable? I trust that this Council and Hong Kong as a whole should ponder over this matter and ask, "When is enough enough?"

The second allegation is that the conduct of LEUNG Chun-ying does not qualify him to be the Chief Executive. The first sentence of Article 47 of the Basic Law reads, "The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties." For the word "integrity", the Chinese rendition is "廉潔奉公", which reflects that morally, the Chief Executive shall be a person of integrity, and he should be honest and upright in his conduct.

Regrettably, LEUNG Chun-ying not only lied after he had assumed office as the Chief Executive, he had also constantly told lies when he was running for the election. The most obvious example is that he accused his opponent, Henry TANG, at the Chief Executive election forum on 16 March: "Many people say that the problem about your UBWs is not simply a UBWs issue; rather, you openly lied to the public and concealed your UBWs. Not until the media published full reports with pictures on your UBWs did you honestly admit that you had concealed the fact." I believe the public is quite familiar with those words that I have just quoted, and they have also heard them many times. Both LEUNG Chun-ying and Henry TANG had UBWs but LEUNG Chun-ying concealed his UBWs and he even uprightly criticized his opponent for having an integrity problem. LEUNG had misled the public as well as members of the Election Committee. I trust that if LEUNG Chun-ying were found to have UBWs during the Chief Executive Election, the results would be very different.

I remember that the Chief Secretary for Administration, Mrs Carrie LAM, had, in reply to my oral question, said in December last year that "The Chief Executive shall strictly observe the highest standards of conduct, to set an example for the general public." As to "setting an example for the public", I really want to ask what example the Chief Executive has set.

The third allegation is that LEUNG Chun-ying has not only lied in his personal capacity, he has also instigated and misled the staff of the Office of the Chief Executive-elect to lie for him. In June last year, the Office of the Chief Executive-elect published some inaccurate statements on behalf of LEUNG Chun-ying in relation to UBWs at his residence in the Peak. There is only one

reason for this, that is, LEUNG Chun-ying provided false information to the staff of the Office of the Chief Executive-elect. Even if the staff of the Office of the Chief Executive-elect had made a wrong response without confirmation, LEUNG Chun-ying had also failed to immediately clarify the situation. The fact that LEUNG Chun-ying asked the Office of the Chief Executive-elect to publish false statements and misrepresent facts constituted the misconduct of a public officer.

President, there is a very strict threshold for an impeachment motion. Article 73(9) of the Basic Law specifies that such a motion should be initiated jointly by one-fourth of all the members of the Legislative Council and charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign. One of the important elements is that such a motion should be initiated jointly by one-fourth of all the members of the Legislative Council. If we also believe that the Chief Executive has or is suspected of dereliction of duty, have we really fulfilled our responsibilities as Members if we just sit here without doing anything?

Secondly, I emphasize that the focus of the allegations I just made is not on the UBWs issue of Mr LEUNG Chun-ying. We are not saying that he has seriously violated the law and he has to be impeached because he has UBWs. We are not talking about that. As stated in the document, we are concerned that he publicly lied to the Legislative Council many times, which violated his constitutional responsibility as the Chief Executive.

Thirdly, some criticized those of us who proposed this impeachment motion that we have kept playing up the UBWs issue, which is a waste of time. As I have just said, LEUNG Chun-ying should not have been elected and he should have taken the blame and resigned. The fact that he has not done so promptly is a waste of time. Members who voted for his election as the Chief Executive are going to vote against the impeachment motion today. They are making the same mistake again, which is a waste of time.

President, we witness today conflicts among the constitutional government, the rule of law and the rule of man. We propose this impeachment motion to maintain the existing constitutional system. Hong Kong should definitely not regress when some Mainland people have started to demand for the implementation of the constitutional system in our country. We must defend the constitutional government and the rule of law. Yet, some pro-establishment

Members want to protect LEUNG Chun-ying today. In protecting LEUNG Chun-ying, they have to pay the price of destroying our constitutional system; and this is the rule of man.

We want to protect this system for this is more important than protecting any person. It is because we know that good governance in Hong Kong is built on a sound system, rather than a person. I believe Hong Kong people would like to see the continued proper development of the constitutional government and the rule of law, instead of reverting to the rule of man.

President, I so submit.

**MS EMILY LAU** (in Cantonese): President, I speak in support of the motion under Article 73(9) of the Basic Law moved by Mr LEUNG Kwok-hung to activate the impeachment process.

President, a number of Honourable colleagues have said that we have made a historic move today as we are exercising for the first time the powers granted to this Council under the Basic Law. First of all, I would like to thank Mr Dennis KWOK, Mr Martin LEE, other lawyers and their assistants for they had worked around the clock to draft this motion to activate the impeachment process. They told us that there were more than 30 drafts and the wordings were carefully drafted. I heard that many of them only slept for dozens of minutes each night, some only slept a few hours while some others even slept on the floor. I greatly appreciate their hard work and I extend my sincere thanks to them.

Why did we initially say that this issue ought to be handled very carefully? When someone initially proposed the impeachment of the Chief Executive, the Democratic Party commented that the issue should be handled with prudence. The reason is that, as specified in Article 73(9) of the Basic Law, "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 if he or she refuses to resign ....." In that case, we can jointly initiate a motion to activate the impeachment process. For this reason, the Democratic Party considered that the issue should be handled with prudence.



President, you may recall that Mr WU Chi-wai proposed a motion of no confidence in December; but that motion is not the same as a motion under Article 73(9) of the Basic Law. At that time, he proposed the motion as the public had lost confidence in the words and deeds of the Chief Executive. However, when some Members suggested proposing a motion under Article 73(9) of the Basic Law to activate the impeachment process, many people, including some members of the Democratic Party, indicated that it was necessary to cautiously examine if the relevant provisions have been complied with.

I am very grateful to all the lawyers, Mr KWOK and his colleagues who had worked around the clock for many days and had collected a lot of information. As I have just mentioned, there are 10 pages of information. President, we have sent the document to Members and the Chief Executive, hoping that the Chief Executive would give a response. The document has been released on the Internet as we also hope that more people would learn about the contents. A few Members have also raised funds to put up newspaper advertisements, hoping that all those who are sensible and interested to learn about the issue would go through the details.

President, the document is mainly about how the Chief Executive had lied to the public, and we think there is serious dereliction of duty. As it turns out, he lied and worse still, he obtained the present position by lying and deception. Many people still queried how he could act like that. A few days before Henry TANG's radio interview, the public had already queried how LEUNG Chun-ying could have accused his opponent at the television debate. As Mr Albert HO has said earlier, the matter was serious because LEUNG Chun-ying had hit Henry TANG's Achilles heel. Nevertheless, Mr Albert HO had never dreamed that LEUNG Chun-ying had also made the same mistake while he was accusing his opponent.

President, had he acted shamelessly? Given his words and deeds, how can civil servants face the public? The Chief Secretary for Administration has just said that the Chief Executive was very sorry for the great pressure on the Civil Service because of this incident. This is not an issue about whether he was apologetic, it is about the fact that his acts have disrupted the civil service system. Many Mainland officials have highly praised the systems in Hong Kong over the years, and I am not sure if anybody will still praise the systems in Hong Kong. Perhaps, some may be giggling behind our back.

Mr Albert HO has just remarked that Hong Kong is becoming increasingly like the Mainland; this is really sad! In the past, Mainland people might consider Hong Kong as a model; yet, Hong Kong has become "mainlandized", and many practices on the Mainland have now emerged in Hong Kong. I think this has gone too far. Some may say this incident tells us that, unlike Mainland officials, the Chief Executive in Hong Kong does not live in luxurious official residence. Nevertheless, Hong Kong has its own systems; the Civil Service and the public have explicitly stated that they have very high requirements of people in high position and with great power.

Under Article 73(9) of the Basic Law, if a motion is initiated jointly by a sufficient number of members of the Legislative Council and charges the Chief Executive with dereliction of duty, the impeachment mechanism can be activated. This is precisely an issue for debate at this Council meeting today. Some may think that we are making efforts in vain and we are going to lose. However, many incidents would initially been perceived by many that it would not be successful. President, if you ask the 800 000-odd people dressed in black and soaked with sweat who took part in the 1 July march in 2003 during the march if they could stop the authorities from legislating under Article 23 of the Basic Law, I believe they answers were in the negative. Nonetheless, they further stated that even if they could not stop the authorities from doing so, they would still participate in the march. Who had participated in the march on that day? The participants included wealthy accountants, senior partners of law firms, people from the business sector and many others. President, they participated in the march because they believed that something bad had happened.

The situation today is entirely different from that in 2003 when the authorities would legislate under Article 23 of the Basic Law. Yet, this issue should still be treated seriously. Many Members have said that LEUNG Chun-ying's conduct would set a bad example to children. To me, not only children are taught a bad lesson, everybody will be taught a bad lesson. If someone does the same thing in the future and he is advised to stop, he will respond by saying, "The Chief Executive, LEUNG Chun-ying, does the same", and he will thus refuse to stop. Some Members have also said that was no big deal. I do not know if Dr CHIANG Lai-wan will later ask if we are going to dismiss the Chief Executive. Let us wait for Dr CHIANG Lai-wan's "performance" later on. That is why we are going to debate the relevant issues today.

President, the Chief Secretary has just now asked us to stop because many people consider it unnecessary to proceed with the debate, and as the other two relevant motions had not been passed after debating for more than 10 hours, we should not waste time to keep on debating the same subject matter. It would be better for us to deal with some livelihood issues that all of us are concerned about. She also pointed out some issues that Mr LEUNG Chun-ying has indicated that he would deal with, including stopping doubly non-permanent resident pregnant women to give birth in Hong Kong, stopping the expansion of the Individual Visit Scheme, and launching of two stamp duty measures and the "Hong Kong property for Hong Kong residents" policy.

President, have all these issues been properly handled? Although I do not know the contents of the Policy Address to be announced next Wednesday, I trust that we all think the Chief Executive may not deal with the issue concerning doubly non-permanent resident pregnant women. We have proposed amendments to the Basic Law while some have proposed the interpretation of the Basic Law. If the interpretation of the Basic Law is required and the authorities cannot properly deal with the issue concerning doubly non-permanent resident pregnant women, the issue would even aggravate and lead to more heated debates.

President, the Chief Executive has proposed stopping the expansion of the Individual Visit Scheme, but there is still the problem of parallel imports. In my constituency, hundreds of people are shouting daily at the station for they cannot buy the commodities they want. I really cannot understand why the Secretary said that the problems have been handled.

The Secretary just mentioned stamp duty and the relevant Bill has already been introduced. I think many Members will be eager to join the Bills Committee to scrutinize the bill. The rich are hurling abuses and I really do not know what to do. We only know that property prices have continued to rise and the number of sub-divided units has been on the increase. In spite of that, accountability officials have expressed in this Council that the existence of sub-divided units has its values and these units should be preserved. When the Chief Secretary said that the problems have been handled, I trust that people watching television or listening to the radio will be at a loss.

In addition, the Chief Secretary has pointed out that civil servants are under great pressure. This is inevitable and the situation will not improve even if the Chief Executive "feels sorry". Even if he is not going to "kill himself to express his apology to the nationals", as what people did in ancient times, he should at least step down.

President, the editorial of one newspaper today reads: "Fraud in statistics — how much credibility the Government still has?" President, this newspaper is not known for toppling LEUNG. As stated in the editorial, "It is a straw in the wind; the problem of institutional fraud in government departments has not just emerged today". Different examples have been given, including the incident of switching urine samples involving the Rehabilitation Division of the Correctional Services Department as a Member has just mentioned; the failure of the air pollution control equipment of the Environmental Protection Department to detect air pollutants, and the Ovitrap fraud of the Food and Environmental Hygiene Department.

President, we definitely cannot put all the blame on LEUNG Chun-ying because some problems had probably emerged before LEUNG Chun-ying assumed office. Yet, government departments are working this way and the Chief Executive has such problems ..... President, the incumbent Chief Secretary is not the Head of the Civil Service but the former Chief Secretary was. From what I learn asking raising many questions, nobody is the Head of the Civil Service now; even the Secretary for the Civil Service is an accountability official. I hope the Chief Secretary would think about this: in the long run .....

I remember the Chief Secretary had once said on television that she had placed her credibility wholly on the Government. I am really puzzled and I wondered why she had to do so. President, she should follow the DAB's principle of approving what is right and condemning what is wrong. She should support people who did something right and make some fair comments when people made some mistakes. The Chief Secretary was the most trusted official not long ago. Instead of placing all bets of her credibility on the Government, the Secretary should be unbiased and impartial, objectively and independently examine herself and analyse the internal development of the Government. She should also have moral courage or noble character and unquestionable integrity as President XI Jinping has said. She should stand up and tell the public her views on the situation, rather than telling people in tears that there is no way out.

Although people do not really like to listen to some of the Chief Secretary's comments, some people still trust in the Chief Secretary and they would like the Secretary to make a fair comment. Now that the Civil Service is under heavy pressure, we hope the authorities would seriously deal with the issue, so as to restore public confidence in the Civil Service and the Government. No matter Hong Kong people like it or not, they will still continue to live here. The Democratic Party also hopes that more people would make investments in Hong Kong and consider Hong Kong a good place for business, creating a lot of employment opportunities for Hong Kong people.

Yet, there are many serious problems with our system. Even the highest leader has problems of integrity and he has fraudulently obtained his position. A Member has just pointed out that people made catcalls wherever the Chief Executive went. President, you often go around; do you ever have such an experience? You may not be able to understand the feelings, but I believe you can see from the television that the situation is unsatisfactory. What should we do?

Today, we are also going to follow the principle of approving what is right and condemning what is wrong. We know that there are contradictions among the royalists. President, you may understand better than me about the sharp contradictions. Some Members may vote against this motion but some Members have clearly expressed that there are problems with the Chief Executive's mistake. Some Members have also suggested that a yellow card should be issued but I conversely hope that all Members would say something in fairness, and consider how we can give the community an account of the situation, and what message they we are going to give.

President, the debate today is certainly targeting the Chief Executive, LEUNG Chun-ying, but we also hope that all people giving responses in this Council (civil servants or accountability officials) would understand that lying to this Council and cheating Members and the public would lead to very serious consequences.

I hope the Chief Secretary would make fair comments and tell the public how the Chief Executive of the SAR should be regarded in the present predicament.

**DR CHIANG LAI-WAN** (in Cantonese): This is the first meeting of the Legislative Council in a new year, and on behalf of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB), I hereby wish all Hong Kong people a harmonious, healthy and joyful year.

President, I express regret that a number of Members move to impeach Chief Executive LEUNG Chun-ying today, as the issue of unauthorized building works (UBWs) surrounding LEUNG Chun-ying has already been discussed many times during the Council meetings. Even courts cannot hear the same case with the same charge over and over again, let alone the Legislative Council as its main responsibility is to enact laws rather than hear cases.

Today's impeachment motion is moved under Article 73(9) of the Basic Law, charging the Chief Executive with serious breaches of law and dereliction of duty. But, what are the justifications? I have gone through the three main charges of the motion which are copiously spelt out in 10 pages. It is really terrifying if not infuriating, as they have used almost all the adjectives listed in the legal dictionary, which include false, intentional, deceitful, delaying, impeding, covering-up, concealing, misleading and corrupt. President, that is not all, there are also charges of undermining press freedom, manipulating the Hong Kong Government and hurting members of the public. President, a person who does commit so many crimes will be sentenced to 10 years' imprisonment, if not life imprisonment. No wonder Mr Dennis KWOK mentioned in his press article that "members of the public actually do not understand the grounds for impeaching the Chief Executive today". Yet, I would not blame those Members who have signed this motion, as it appears that they do not possess such high-level expertise to write this indictment.

In fact, the three main charges of the whole indictment can be summarized in one sentence; that is, charging the Chief Executive for lying.

Therefore, the crux of today's impeachment motion is whether the Chief Executive had lied or not. If we have sufficient evidence to prove that he had lied, it is then worth initiating the impeachment motion today. However, if it is merely out of suspicion without sufficient evidence to prove that he had lied, the impeachment motion should, after all, not be initiated, let alone establishing the charges.

After the occurrence of the UBWs incident, many people and I were all caught by surprise. When reading such news on the press, I even could not help but crying "No kidding?" People who know LEUNG Chun-ying would realize that he is a person who acts prudently. How come he would have made such mistakes?

President, I majored in Psychology at university. I am used to conceiving problems from different perspectives. As regards this incident, I have thus tried to objectively raise many questions based on both the assumptions of "trusting" him and "distrusting" him, and have checked and counter-checked the evidences via different channels. With respect to the charges made today, I eventually arrive at the following conclusions after examining them in the three main perspectives of sensibility, rationality and legality.

Let me first analyse it from the perspectives of sensibility and rationality. Did LEUNG Chun-ying actually know the existence of UBWs at his residence when he invited the media to his house? Had he knowingly not reported and lied about it? Had he seriously breached the law or involved in dereliction of duty? I will analyse this problem from six aspects.

Firstly, a person who commits a crime usually has a motive. Then, what motive did LEUNG Chun-ying have for lying? Some said that he lied with a motive to secure the position of the Chief Executive. If he really thought that way, he was totally wrong. Ever for people running for the Legislative Council election, they would try, as far as possible, to solve their own problems before campaigning, not to mention those running for the Chief Executive election. If he knew there were problems at his residence, how come he would have invited reporters and friends to his home time and again?

People who have known LEUNG for years know that he acts very carefully and prudently, some even say that he is a neat freak in politics. For a person running for the Chief Executive Election, one more room or one more trellis at his residence are all trivial matters. As he intended to run for the Chief Executive Election, it was not worth telling lies for a servant's room or a trellis. The only explanation is that he really did not know that those were UBWs.

Secondly, some queried about the exemption clause for UBWs in the purchase agreement of the mansion which he bought in 1999. In fact, ever since

the financial turmoil in 1997, property prices had plummeted and there had been several lawsuits where buyers succeeded in cancelling transactions on the ground of having UBWs in the properties. I have checked with large property developers and they all said that after those lawsuits, the exemption clause for UBWs had almost become a must-sign document in the sale and purchase of properties. As mentioned by the previous owner Mr LAU, "In case the property prices fell and he did not want to make a deal, what could I do? My lawyer, of course, had to safeguard my interests". Therefore, I think it is understandable for LEUNG Chun-ying, who liked that mansion so much, to be willing to sign the document.

Thirdly, LEUNG Chun-ying, after purchasing that mansion, took the initiative to apply to the Buildings Department (BD) for renovations and alternations. Frankly speaking, people generally would not apply to the BD for renovation works. As we all know, it involves troublesome procedures and people would only make such application when rebuilding the whole property. However, LEUNG Chun-ying applied to the BD for building a cover over the staircase, constructing a canopy in the passageway or installing a window in the toilet, which reflected that he really wanted to comply with the rules. As said by LEUNG Chun-ying, "If I was aware of any other UBWs in the mansion, I must have applied altogether to resolve them". Therefore, when LEUNG Chun-ying told the media in front of the trellis that he did not have UBWs, he obviously had no idea of the UBWs in his mansion.

As we all know, the problem of UBWs has plagued the former Chief Executive, government officials, Members and the general public over the past years. Therefore, I very much believe that these people — including some professionals — really do not have a clear understanding of the conditions of UBWs. What are the specific definitions and scope of coverage for UBWs, defaulted works, exempted works and amenity works? All of them indeed point to an important problem, that is, there are many grey areas in the existing legislation governing UBWs. Many regulations are no longer suitable nowadays. I hope that the Government would conduct a comprehensive review in the future to align with the actual current situation in Hong Kong.

Fourthly, some said that when LEUNG Chun-ying found in October two years ago that there was an illegal room in the basement at House 4, he immediately seal the room with a brick wall. This is an act of covering up.



May I ask Members present in the Chamber, what would you do if you found that there are UBWs in your flat or office? Who would take the initiative to immediately request the BD to check their own places? Therefore, it is just human nature that LEUNG Chun-ying took matters into his own hands once he discovered the problem. As regards whether it is right to build a brick wall, the BD indicated days ago that the matter should be handled in a better way. Yet, we cannot say it is wrong for LEUNG Chun-ying to build a brick wall because that is an exempted work. Of course, he could do better and should contact the BD for inspection at an earlier time. He thus admitted negligence on his own part.

Fifthly, during the Legislative Council Question and Answer Session on 10 December last year, a Member asked him why he said he did not have UBWs during his campaign for election. The Chief Executive responded by saying, "To my memory, I have never said that I did not have any UBWs". As a matter of fact, we cannot say it was wrong for him to say so. When LEUNG Chun-ying told the media in front of the trellis he did not have any UBWs, he had not formally announced his candidacy, and he was not yet campaigning for the election. Of course, we can say that his remark gave a wrong impression to some people. No matter what, we cannot say that he was wrong. Nor can we accuse him of telling lies on this ground.

Sixthly, lastly, I am going to talk about the trellis. LEUNG Chun-ying once said that the trellis had already been built before he moved in. Aerial photos were later found by the press as evidence that the trellis was built at a later time. He was therefore accused of lying. I think this is exactly the point showing that he made such mistakes unintentionally and he did not have to lie. The reasons are twofold. For one thing, all members of the public in Hong Kong know that the Government has aerial records of housing units in Hong Kong in the past years and there is literally no way to hide. As LEUNG Chun-ying has frequently been depicted by the media as a "sophisticated and detail-oriented person who leaves no point to be attacked", how come he would not be aware of that and told lies? That would not be the case unless we considered him a "pig" instead of a "wolf". There is another point, as these things happened more than a decade ago, how could one easily recall when the trellis was built or when it was demolished? How could a man, who always go out to work and travels frequently around, possibly remember so many things?

Many men even cannot remember their wedding anniversary days, let alone trellis.

Anyway, LEUNG Chun-ying has already admitted negligence on his part and has repeatedly apologized to the public for the whole incident. From the perspectives of sensitivity and rationality, I therefore think that he really might not know the existence of UBWs. Besides, he did not have any motive to lie. It is normal for him to handle it that way. That is understandable and reasonable.

From the perspective of legality, a political party had reported the case to the Hong Kong Independent Commission Against Corruption (ICAC), accusing LEUNG Chun-ying of making false statement during his campaign for election. The ICAC indicated in recent days that the investigation has to be terminated due to insufficient evidence. A Member also filed an election petition to courts, accusing LEUNG Chun-ying of making inaccurate remarks. The Court of Final Appeal eventually ruled that the petition be dismissed. From the stances of upholding the rule of law and safeguarding judicial independence, Members of the Legislative Council therefore should respect the relevant decisions.

As there are no evidences from the perspectives of sensibility, rationality and legality to prove that LEUNG Chun-ying had lied deliberately, today's impeachment motion should not be initiated after all.

According to results of the opinion poll conducted by the University of Hong Kong from 5 December to 13 December, 45% of the respondents expressed their trust in the SAR Government. In other words, after this incident, there are still many members of the public who very much hope that the SAR Government would do more real work for them.

Of course, some said that this poll indicated people's trust in the Government, not in LEUNG Chun-ying. However, we have to know that a snake without a head cannot crawl. A working team, though being good, must still have a commander-in-chief. Some can certainly suggest we change this commander-in-chief. That is easy to say so. We have to know that the whole impeachment procedures have to go through "two stages, three doorways and six checkpoints" before completion. Among which, the work of the investigation committee alone would probably take one or two years. We, Members of the

Legislative Council may still be handling the impeachment case even after the term of office of this Government has expired. Even if we do not mind, members of the public would go against it.

My fellow colleagues, as we are together in this Hong Kong vessel, we all hope that this ship would sail steadily. The stormy global economy at present poses both risk and opportunity for Hong Kong. At this juncture of time, we should help each other and pull together to support the SAR Government headed by Chief Executive LEUNG Chun-ying, so that he can stay focused to steer this ship well and make a great effort to develop a diversified economy and formulate even more better livelihood policies in the future.

The Most Reverend Dr Paul KWONG, Archbishop of Hong Kong Sheng Kung Hui said, "For most of the past year, our society has left people feeling disgusted and restless". He hope that we would trust, respect, help and love each other, and should not stuck in the old mindsets of "I am right, you are wrong" and "either black or white".

My fellow Members, an issue seen from different perspectives can induce different views. This is an issue which we have discussed many times without reaching a consensus. Do we still have to dwell on it? Today, every line of the remarks Members made in this Chamber will be recorded on the archive of the Legislative Council. Our future generations will judge for themselves if it is right or wrong.

Therefore, based on the aforesaid analysis from the perspectives of sensibility, rationality and legality, I hereby say in a responsible manner that the Chief Executive LEUNG Chun-ying has not seriously breached the law, let alone dereliction of duty. Therefore, I oppose today's impeachment motion.

I so submit. Thank you, President.

(Clapping in the public gallery)

**PRESIDENT** (in Cantonese): Those in the public gallery please keep quiet.

**MR LEE CHEUK-YAN** (in Cantonese): President, I think the speech of Dr CHIANG Lai-wan earlier was not "forceful" enough on one point, and she should make a pose and sing "Sailing the Seas Depends on the Helmsman and the Helmsman is LEUNG Chun-ying". Hearing that part of her speech, I really want to listen to her singing. Dr CHIANG has really been "possessed", why don't we learn from Dr CHIANG and sing "Sailing the Seas Depends on the Helmsman"?

Nevertheless, the question is: is LEUNG Chun-ying our helmsman? If LEUNG Chun-ying is now the helmsman of the vessel named Hong Kong, it will be bad to us because his integrity is questionable, Hong Kong will then become the Titanic, or even more saddening, the sinking vessel in the recent Lamma Island maritime disaster. May I ask everyone and Dr CHIANG Lai-wan, in what direction will a Chief Executive of no integrity direct Hong Kong?

Hence, President, we certainly know that the outcome will just be what the Chief Secretary for Administration has said, given that the earlier no-confidence motion was negated, and the motion under the Legislative Council (Powers and Privileges) Ordinance was negated, accordingly she firmly stated that our motion today will also be negated. Of course, she is not wrong to make that comment, but saying that the voting result has reflected public opinion is extremely illogical. She can say the Legislative Council itself is meant to reflect public opinion, but please do not forget that the Legislative Council is not formed through universal suffrage, how can we assume that it can reflect public opinion? How can public opinion be reflected? On 1 January, 130 000 people took to the streets to impeach LEUNG Chun-ying, this is how public opinion was reflected, through the people but not the Legislative Council. There is no universal suffrage or direct election for the Legislative Council today, thus it cannot claim that it can represent public opinion.

Of course, this solemn impeachment motion will eventually be negated today. This is a miserable political reality in Hong Kong, wholly because of the protection of the royalist camp. However, let us look at the impeachment motion, the pro-establishment camp can give three reasons at most to oppose the motion. Firstly, LEUNG Chun-ying was only negligent; he did not tell lies; secondly, do not impede his work; thirdly, as Mr CHAN Kam-lam has said, this is simply a political struggle of the opposition camp. Let us go through these three reasons.

The first reason is given most often by Dr CHIANG Lai-wan, that LEUNG Chun-ying is negligent but he has not lied. I think this is the biggest lie she has ever told, why do I say so? Everyone knows what LEUNG Chun-ying said in this Council on 16 July, does she remember? On 16 July, when answering the questions raised by Members, he told the Legislative Council and Hong Kong people that he had never concealed UBWs, and sought to deal with all the problems immediately. When he said so, he was well aware that the basement room had already been sealed with a wall in November 2011, was he not concealing the UBWs? Why did he erect a wall? It was because he knew it was a UBWs. If he said the basement room was not a UBWs, he would not have erected a wall. The reason for erecting a wall secretly is that he knew it was a UBWs. For any other issues, he knows very well how to turn to the Buildings Department (BD) for help, but this case is an exception, does it follow that he told lies on 16 July?

The second lie he told on that day is that he sought to deal with all the problems immediately. On 16 July, when he said he sought to deal with the issue of UBWs immediately, the BD had already sent him a letter, requesting him to explain the issues related to the basement room, and seeking his co-operation, but he had never been co-operative until November, isn't it a lie? He said he would deal with all the problems immediately, but did he reply the BD immediately? No. Why did he not reply the BD? He wanted to evade judicial proceedings for the post of the Chief Executive. To be frank, he knows at heart he is at fault, he thinks that if the Court learns of that issue, he will lose his case, is that true? In that case, his lawyer advised him not to give any reply and he did so. I want to ask Honourable Members, is it a lie? If not, what is a lie? Please do not hide your conscience. Dr CHIANG Lai-wan, I know love is blind indeed, she is indulged in love and loses her head, but please turn to the facts, a lie is a lie, no explanation can be given to get away, because all Hong Kong people have listened to his lies.

Well, regarding the remark she has just made, I dare not say it is a lie. I dare not tell from the following statement made by LEUNG Chun-ying that he had told lies. In his reply to the question of Mr James TIEN in the Legislative Council on that day, he said, "To my memory, I (during the election campaign) have never said that I did not have any UBWs". I dare not say it is a lie, but what message does it convey? If it is not a lie, it reflects that his personality, reputation or integrity is despicable. He took office by deception. Do you

think so? He was well aware that he had UBWs, he then used UBWs to attack Henry TANG, and yet half a year later, he said "I have never said that I did not have any UBWs, what can you do to me?" Is this a problem of reputation or integrity?

Hence, from today's impeachment motion, we can actually see that Hong Kong people are miserable. Our Chief Executive is a liar and his integrity is questionable, but we still defend him by saying that he is only negligent. Is he really worth defending?

The second reason is that we should not disturb him, thereby impeding his work. Some may say that the integrity problem is not an issue, what matters most is that he can do his work. I absolutely disagree; please do not overlook the point that when a Chief Executive is of questionable integrity, we will never know what he said about his work is real. If he is fraudulent in his work or in leading the entire government, what can be done? The fraudulent practices of the Census and Statistics Department, as mentioned just now, have drawn our great concern; we should be concerned because we do not want Hong Kong to rot. If we are anxious about the fraudulent practices of the Census and Statistics Department, why should we not be anxious about the fraudulent practices of the Chief Executive? In addition, if he can tell lies on this issue, he can very well tell lies on other policy issues.

At this point, I have to criticize the Chief Secretary for Administration this time. I suspect that she had made false statements or had lied in her reply to the Legislative Council on a particular issue. President, Mr TAM Yiu-chung was also present at that time. We requested the Panel on Constitutional Affairs to discuss the changes of the functions of the Central Policy Unit (CPU). As you may recall, at a meeting of the Legislative Council Panel on Public Service, Mr SHIU Sin-por said that they had to fight in the battle for public opinion, he then supported Ms Sophia KAO Ching-chi to take charge of manpower training, and indicated that all appointments to advisory committees would go through her. At that time, I pointed out that the CPU had changed its role to become the Propaganda Department and the Organization Department of the Central Government. We requested to discuss whether the functions of CPU had changed. However, in replying to the Legislative Council, the Chief Secretary said that as she had already responded to the same questions at the special meeting of the House Committee on 23 November, and she had nothing more to

say, she then said (this is the misleading point) the Administration had reiterated that there was no change in the functions of the CPU. Nevertheless, when I went through an Administration paper of the Panel on Public Service, I found a sentence stating that the functions of the CPU have expanded, that is, its functions have changed. Accordingly, I do not know which side I should believe, one paper indicated expansion of power while another said there were no changes, do you think this is an integrity problem?

Regarding the second integrity problem, let us turn to livelihood issues. Some say that we should let Mr LEUNG deal with livelihood issues. Fine, let me talk about the integrity problem in livelihood issues. In his manifesto, LEUNG Chun-ying said he would follow up on the legislative proposals on standard working hours. When Mr Matthew CHEUNG came to the Legislative Council, we asked him how to follow up, what was the timetable and the roadmap, he replied in the negative. He said that a committee would be set up to examine if there was any consensus and then decide on the way forward. He had never mentioned the legislative proposals on standard working hours. Is it an integrity problem? Whom can I trust? Despite what was written in his manifesto, LEUNG Chun-ying acts in another way. This is a livelihood issue. We are told not to disturb him and impede his work, but what has he done? The rents of "sub-divided units" has risen to the current high level, what has he done? We fail to see that he has dealt with the problem, and I am not sure what he has done is fraudulent or not. If members of the public cannot trust every word he said, this Hong Kong vessel will soon sink.

For the third reason, some said we, the opposition camp, engage in political struggle. To be frank, we have to engage in political struggle, why? This is because the system itself is faulty. After the reunification, TUNG Chee-hwa, Donald TSANG and LEUNG Chun-ying are all evils of the coterie election system, the three of them have original sins. It can be said that the entire system itself has original sins, therefore the Chief Executives elected have original sins, because they are not legitimate, they are only returned by a coterie election of 1 200 people. However, on top of their original sins, they continue to make mistakes during their terms of office.

With "businessmen ruling Hong Kong", TUNG Chee-hwa tried to push through the legislation for Article 23 of the Basic Law, in an attempt to forcibly carry out this task for the Central Government. Luckily, 500 000 people took to

the streets; otherwise there would be no freedom in Hong Kong. At last, TUNG Chee-hwa had to step down due to a leg pain, which proves that "businessmen ruling Hong Kong" does not work. Next, we have "civil servants ruling Hong Kong" under Donald TSANG. At first, people thought that Donald TSANG should be competent at this post since he had been a civil servant for many years. Who would have thought that he had been degraded to a "corrupt TSANG" and accepted advantages? This is the outcome of Donald TSANG or civil servants ruling Hong Kong. Next, we have "communists ruling Hong Kong", or the so-called "professionals ruling Hong Kong", both are in fact "communists ruling Hong Kong". The third Chief Executive LEUNG Chun-ying was returned by the Liaison Office of the Central People's Government, and he has problems of integrity and credibility. In the end, these three Chief Executives serve the Central Government, not Hong Kong people, and they are true to their power centre, hoping that being true to their power centre will keep them in office. The three of them are not serving Hong Kong people, as they reckon that they can only stay in office through appeasing the Central Government, not serving Hong Kong people. This is pathetic for people of Hong Kong.

We really need to engage in political struggle. We have to ruin this political system, so that Hong Kong people can rule Hong Kong. Hong Kong people can, through democratic election, elect a Chief Executive, and even if he may not be the best, we still respect the system and can elect another Chief Executive after four years. People can participate in the election and make decision. By then the manifesto of the Chief Executive candidates must be accepted by the public, not just 1 200 people alone. However, we do not have this system. Hence, President, we need to change this system now. Hence, there are views that it does not work no matter who the Chief Executive is, of course, whoever assumes the office of the Chief Executive is illegitimate under this system.

Can we put in place a legitimate system in Hong Kong with universal suffrage, so as to allow every member of the public to get involved and be the master in a real sense? Hence, President, our motion today is an impeachment motion in an attempt to give Hong Kong people a hope that we can have a government of integrity. To have a government of integrity, the "big liar" known to Hong Kong people must step down, we can then request for an immediate universal suffrage, because the current system cannot sustain the development of the Hong Kong society today.



The election slogan of the Labour Party this time is "We deserve better!" The current situation in Hong Kong is really miserable, nothing is the worst but even worse. Why can't we deserve better? Why can't we have a better system? With a better democratic system, Hong Kong people can then have a truly fair system.

Thank you, President.

**MR CHAN CHI-CHUEN** (in Cantonese): Today is a historic moment of Hong Kong, but this is just the beginning, the beginning of a historic moment. Hong Kong people have for the first time successfully initiated the impeachment procedures against the Chief Executive, which is made possible with the signatures from one-fourth of Members of the Legislative Council. This motion of impeachment is different from a vote of no confidence, and it is different from a motion moved under the Legislative Council (Powers and Privileges) Ordinance, because a motion of impeachment cannot be initiated casually.

There are now 27 Members calling on the "Cheating Executive" whose integrity has gone bankrupt to step down. Disregarding the final outcome of this motion, we Hong Kong people are making history. I wish to tell Members that this motion of impeachment does not come by easily. Had there not been so many people rising to express their discontent, honestly speaking, I think we would not possibly have obtained enough signatures from Members for triggering this motion of impeachment. I remember that last year, Hong Kong people very much wished to impeach the "Greedy TSANG" but due to hesitation on the part of some Members, the opportunity slipped by and we could not initiate the impeachment procedures. Dr CHIANG Lai-wan said earlier that it might probably take a year or two to complete the impeachment procedures and that we might not be able to impeach the Chief Executive even upon completion of our term of office. According to Dr CHIANG's logic, the "Greedy TSANG" definitely would not be impeached because his misdemeanours were revealed at the end of his term and it would be a waste of effort to propose impeachment against him for he would have completed his term of office. But is it that the impeachment procedures should not be proposed even against this "689" who committed his wrongdoings at the start of his term? If that is the case, we might as well delete all the provisions on impeachment.

Let me say this once again. This motion of impeachment today does not come by easily. Even Mrs Anson CHAN, who was once dubbed "Hong Kong's conscience", has said that it would be impractical and useless to call on LEUNG Chun-ying to step down as the Central Authorities do not have plans to replace him. I would like to take this opportunity to tell Mrs CHAN as well as everyone who shares similar views that we are attempting the impossible, knowing well that it stands no chance of success. He has done something wrong and we must take actions. We must impeach him and do what we should do. We must do it even though we know well that it stands no chance of success. Moreover, a decade ago in 2003, everybody thought that there was no way for Hong Kong people to stand up to legislation on Article 23 of the Basic Law and that it was impossible for Hong Kong people to call on TUNG Chee-hwa to step down. But a decade ago, Hong Kong people wrote a glorious page in the history of Hong Kong, as no legislation was eventually enacted on Article 23 of the Basic Law and TUNG Chee-hwa had stepped down because of a pain in his leg. We made it a decade ago, and I believe Hong Kong people can continue to write another page in history a decade later.

Chief Secretary for Administration Carrie LAM said earlier that an impeachment was unnecessary. Sorry, Mrs LAM, and I must say that whether or not this is necessary is not decided by her. Now that the facts are put before our eyes, and we, being Members of the Legislative Council returned by the people and representatives of public opinions, do not have the power to forgive LEUNG Chun-ying. Now, it is the people who are telling us to do it. It is the facts that are telling us to do it. They are telling these 27 Members of us to join force to initiate the impeachment procedures. The problem of LEUNG Chun-ying's unauthorized building works (UBWs) has lingered on for years, and all the ludicrous behaviours have been fully exposed. It is a question of integrity that triggered this motion of impeachment and the situation has escalated to a crisis of governance. What we have seen since LEUNG Chun-ying took office are scenes that happen only under a totalitarian government. The chaos created by his supporters, the rallies and demonstrations orchestrated to support the Government, and maintaining stability by paying people to be their supporters are sending chills down our spines. If the impeachment procedures are not initiated to force LEUNG Chun-ying to step down, the Government of the Hong Kong Special Administrative Region will find it difficult even to move a single step in the next few years.

In fact, since LEUNG Chun-ying succeeded in cheating the Central Authorities for the post of the Chief Executive, he has accomplished nothing in his political career. In the final analysis, this is all because of the sophistries that he truly believes — the rule of man overrides the rule of law, and totalitarianism overrides procedures. He said that he wanted to eliminate the colonial features and that he wanted the people's hearts to return to the Chinese Communists and therefore, he implemented national education. He said that the executive, legislature and Judiciary must co-operate with each other and therefore, he criticized the Legislative Council for obstructing the implementation of policies and the District Councils (DCs) for standing in the way of housing development. He hoped to resolve the problem of children born in Hong Kong whose parents are not Hong Kong permanent residents by an interpretation of the Basic Law. He said that he wanted to take care of the elderly and therefore, he refused to budge an inch and made elders aged over 70 rack their brains on how to meet the means test in order to beg for an additional monthly allowance of \$1,100. He said that the community must support the Government in one heart and therefore, he incited the Caring Hong Kong Power to use foul language and violence to support Hong Kong and leverage on the Motherland, following the example of North Korea to promote the ruling regime. These instances of policy administration by fools have precisely reflected oblivion of procedures and neglect of consequences.

He has created miracles for Hong Kong since the reunification in that he is the first Chief Executive returned by a small circle with a low number of 689 votes. He is the first Chief Executive who is so incompetent that he has to rely on an organization paying people to come forth to support the Government. He is the first Chief Executive against whom impeachment procedures are initiated by Members while facing strong calls for his stepping down immediately. Now that even the General Secretary of the Chinese Communist Party (CCP) XI Jinping has vowed to uphold the Constitution in ruling the country, severely criticized the rule of man and corruption, and returned to the path of putting universal values to practice, we in Hong Kong are nevertheless governed by a person whose mind is still full of autocratic thinking and rotten dregs and worse still, a person who dares to say that he enjoys in being the Chief Executive when his many crimes have been brought to light. I think Hong Kong people who have studied history and have not been poisoned by national education must be greatly saddened by the regression of Hong Kong.

Universal values are values upheld universally because they are not values unique to the West or the East, but common values that human beings should pursue. Many political commentators and intellectuals are of the view that it is already too late for the CCP to start a reform only now, as the strong tides of democracy have been sweeping across the world. In 2010, the so-called "Arab Spring" was sparked off in North Africa and the Middle East regions where development is comparatively backward. This is a world-shaking awakening movement which has carried the waves of revolution to many countries like Egypt, Libya, Syria, Iraq, and so on. Up to the middle of 2012, four political regimes have been overthrown by the waves of this revolution. On the contrary, when we look at Hong Kong, our core values have been hanging by a thread after LEUNG Chun-ying took office. During the election we promoted the "Protect Hong Kong" campaign, and LEUNG Chun-ying's problems with his UBWs and integrity, his attacks on the separation of powers among the executive, legislature and judiciary, and the impeachment procedures against him today have made us think of NIXON who was impeached in the Watergate scandal in the 1970s in the United States. NIXON had, by hook or by crook, damaged the established procedures and the rule of law and ultimately, he was willing to resign only after impeachment procedures were invoked by the House of Representatives. As things have developed to this stage, and if Members still use the approach of teaching children and suggest that he should be given a chance, it would be entirely tantamount to indulging a person whose mind is full of a dictator's thinking to continue with his tyrannical rule. This would be helping the tyrant to do evils, and this shameless record must definitely be put down in history.

Here, I must clarify and refute the unreasonable judgment made in the community on the impeachment or overthrowing of LEUNG Chun-ying. Let us rethink this solemnly and seriously: Why is it that during the 15 years since the reunification, not only the democratization of the political system has taken a wrong path but also the post of the Chief Executive has been successfully taken up by a local communist? In fact, the main reason is, as Mr YU Ying-shih had said during an interview by the media last year, "The politics in Hong Kong and that in China are not isolated from each other, and they must be viewed together. The internal struggles of the CCP will be reflected in Hong Kong." He considered that the power struggle in the CCP will be extended to Hong Kong which will not only intensify the division among the tycoons but also deal a blow to the political structure and social values in Hong Kong.

We have heard some people blame participants in rallies and demonstrations as well as Members in support of the impeachment of the Chief Executive for causing divisions in society, but they have forgotten that the entire political reality is that we are under an unfair system and under this system, Hong Kong can only be divided in such a way. A Legislative Council with only half of its Members returned by direct elections is tasked to monitor a Chief Executive who is not returned by universal suffrage, and this Chief Executive returned by a small circle for each term takes a completely different position in governance because of the Central Authorities' manipulation from behind. It can be the JIANG's camp at one time, or it can be the League faction at another time; he can come from the commercial sector at one time, or he can be a senior government official or a local communist at another time. In the Legislative Council, the Functional Constituencies which are controlled by rich and powerful people will always support the Government blindly, trying to hold back directly-elected Members who have the people's mandate. They are more capable of ruining a job than having it done.

Over the last 15 years there are people who have forgotten the root of the problem, and many people have gradually lost the will to fight for democracy. Even political commentators are now playing a guessing game collectively, exchanging information to guess what the Liaison Office will be like after the departure of PENG Qinghua and the arrival of his successor ZHANG Xiaoming. Today, we are determined to overthrow LEUNG Chun-ying and we want to put an end to these ugly rules of the game, the origin of all evils. We demand the implementation of dual elections by universal suffrage and fair competition, so that elections are held under the sun.

For some members of the public and even some Members of this Council, it may not be the case that they do not wish to overthrow LEUNG Chun-ying who has no integrity, but they may have a question in mind: Who will take up the office of the Chief Executive if LEUNG Chun-ying has stepped down? Will it be you or me? In response to the public concern, the People Power has proposed the drawing up of the constitution by all the people, and this is the best answer. Drawing up the constitution by all the people is not a new idea, as it is one of the four guiding principles proposed by the Frontier when it was founded in 1996. It mainly expresses the aspiration for participation in politics by all the people through universal suffrage. This year, the People Power has also put forward the drawing up of the constitution by all the people in our proposals on

the 2013 Policy Address. We have also proposed the setting up of a conference on constitutional amendment, consolidation of dual elections by universal suffrage, the enactment of a political party law and a political donations law, the abolition of appointed seats in DCs and expansion of their duties and powers in district management. If all Members of the democratic camp truly wish to build a democratic Hong Kong, they should resolutely impeach LEUNG Chun-ying to overthrow him. If the impeachment against him is negated, Members returned by direct elections can resign *en masse*, or Members of the "super DC" Functional Constituency should resign, using a political means to trigger a universal suffrage to overthrow LEUNG Chun-ying. Then, all the people can be engaged in drawing up the constitution, with a view to returning a Legislative Council and a Chief Executive with the people's mandate. This will be the best thing done for voters who have persistently supported democracy over the last 15 years.

Just as Henry David THOREAU said in *On the Duty of Civil Disobedience*, "I ask for, not at once no government, but at once a better government. Let every man make known what kind of government would command his respect ....." I urge all Members who claim to be democrats to seriously address the problem and proactively take actions to impeach the Chief Executive today, so that the constitution can be drawn up by all the people tomorrow. Today is the beginning of a historic moment. Even if we in this Council are unable to make LEUNG Chun-ying step down, the actions taken outside this Council will escalate day after day, and never will we give up until our objective is achieved.

I support today's motion. I so submit.

**MR JEFFREY LAM** (in Cantonese): President, although the Chief Executive Mr LEUNG Chun-ying is negligent in handling the issue of unauthorized building works (UBWs), and his explanation on the incident has been contradictory at times in some aspects, undermining the trust of some members of the public on him, so far, we have yet to see the need for the Legislative Council to impeach him at this moment.

President, the issue of UBWs at LEUNG Chun-ying's mansion has in fact perplexed him, as well as the relevant government departments and Hong Kong as a whole, over the past few months. In these few months, we only focus on the issue of the Chief Executive's UBWs at the expense of the Government's

governance, and the society as a whole has already paid a high price for that. After Mr LEUNG Chun-ying assumed office, he has announced many measures on various issues of public concern such as housing, elderly care, "doubly non-permanent resident pregnant women", and so on. Yet, it seems that discussion in the community is relatively more focussed on his UBWs issue.

Although Mr LEUNG Chun-ying is indeed negligent in his account on the UBWs issue, he has already made clarifications, and he also came to the Legislative Council to give further explanation and apologize to the public. I believe that the majority of the people do not consider that his wrongdoings are fatal, and there is no need for us to impeach him at this moment.

Furthermore, Mr LEUNG Chun-ying has just taken office as the Chief Executive for six short months. Next Wednesday, the Chief Executive will come to the Legislative Council again to announce the first Policy Address of his term. As I see it, we need to give him time to implement the various policies he outlined in his election manifesto which are beneficial to society and people's livelihood. We do not want the Government's operation and governance being affected because it will not be beneficial to Hong Kong society as a whole. There are many issues of public concern in society which the Government must address expeditiously. Hence, it is our aspiration that the Chief Executive will bring us some good news when he comes to announce his Policy Address next week.

President, over the past few weeks, we have already discussed and debated over the issue of the Chief Executive's UBWs time and again. I consider that it is now time to allow the Chief Executive and the SAR Government to concentrate on discharging their duties and maintain the normal operation of the SAR Government. At present, there are many issues which Hong Kong must deal with, for example, the issues of housing, elderly care and poverty. The international economic environment has worsened as a result of the debt crisis in Europe and the United States, and Hong Kong's enterprises have also been affected. Hence, the Government should make extra effort in assisting the enterprises, especially small and medium enterprises, because social stability and people's employment could be jeopardized easily if the situation is not handled properly.

As regards the Chief Executive himself, although he has already answered the relevant questions, some Members and members of the public are still dissatisfied with his replies. In this connection, I very much hope that he can learn his lessons, make amends for his wrongdoing by good deeds, fulfil the pledges in his manifesto through the Policy Address soon to be announced, introduce policies that are beneficial to Hong Kong's long-term development, our economy as well as people's livelihood, and produce a good report card for all the people of Hong Kong.

President, I oppose today's motion, and the Business and Professionals Alliance for Hong Kong also opposes today's motion. I so submit.

**MR LEUNG YIU-CHUNG** (in Cantonese): President, not long ago, an Honourable colleague moved a motion of no confidence in Chief Executive LEUNG Chun-ying. The Member considered that LEUNG Chun-ying had withheld the truth in the unauthorized building works (UBWs) incident, and as a person of no integrity, he is not qualified to be the head of the SAR. For this reason, some Members had severely reprimanded him by moving a no-confidence motion in him. But Chief Executive LEUNG Chun-ying did not care a dime about public opinion. He had not reflected on his wrongdoing, admitted his mistakes and apologized to the public. On the contrary, he adopted the tactics of double-talk and fabricated lies to distort the truth. He even said, "I have never said that I did not have any UBWs" in order to shirk responsibilities. It is really distressing for us to hear such words. We have never expected a person who aspires to shoulder responsibility to serve the community will openly insult the public. Even though he always says that he is going to serve Hong Kong, it is doubtful if he really wants to serve the community unselfishly.

Today, 27 Members of us are forced to propose this motion jointly to impeach the Chief Executive because he has not been open and transparent as he claimed to be and he has not given the public a detailed account of his UBWs. Moreover, after he assumed office, he attended a meeting of this Council to explain the case, yet he had repeatedly lied and made false statements. He even purposely concealed his illegal practices. This is a serious violation of the provisions in Article 60(1) and Article 64 of the Basic Law that the Government of the Hong Kong Special Administrative Region must abide by the law and be



accountable to the Legislative Council of the Region; and it shall answer questions raised by members of the Council.

President, as we all know, a public officer should honestly answer questions raised by Members, and be open and transparent. This is the proper attitude of a public officer and the obligation of the head of the SAR Government. Unfortunately, LEUNG Chun-ying lacks awareness in this respect and his sophistry is disgusting. Is he still qualified to serve as the head of our society?

At the Council meeting on 16 July last year, LEUNG Chun-ying said, "I wish to reiterate that in regard to this incident, there was gross negligence on my part, but I have never concealed any possible contraventions. Instead, I sought to deal with all the problems immediately by dismantling some of the UBWs in one or two days." President, despite his reiteration, the fact remains that he has concealed some facts. How could he possibly not have concealed some facts? The illegal room in the basement of his house at Peel Rise and the brick wall are UBWs, these are objective facts which he has never be able to explain. When did he make known to the public about these facts? He only admitted the existence of UBWs when he released his written statement on 23 November last year.

President, he took more than three months from July to November to reveal the truth. Nobody would know what had really happened if he did not account for these issues in the written statement, and he had never publicly admitted what he had done. Is this blatantly concealing the truth? Surprisingly, the Chief Secretary for Administration said publicly that he was only negligent. Later, many Members and groupings of the royalist camp, and even Dr CHIANG Lai-wan today, have pleaded for him and said that he was not concealing the truth, he was just negligent. I really wish to ask what is meant by negligence. I am not very knowledgeable, but I have read some law books to find out more about negligence. Negligence generally means not giving enough care and attention to something that one should pay attention to.

Let us not talk about whether he should or he can give attention to the issue, the point at issue is that he had already given attention to the issue. Why do I say so? Because he had erected a brick wall to conceal the UBWs. How could he have done so if he was not aware of the issue? How can there be negligence if he is aware of the issue? I hope Honourable colleagues would

seriously study the meaning of these wordings and read more books to find out more about the meaning of negligence, instead of making casual remarks, giving the community a bad lesson, causing social chaos and failing to clearly distinguish between concealment and negligence. Has the Chief Secretary for Administration made a mistake? Can she explain to us again what negligence and concealment are?

The conduct of an official can be traced back to the practice of the Chief Executive. The Chief Executive has fooled the public time and again. At the Council meeting on 10 December 2012, he even said "I have never concealed anything and said that those UBWs were or were not built by me. Instead, I have clearly stated all the facts, and this has been the case since the end of June and up to now." What has he been doing so far? He has been lying and covering one lie with another lie. He used specious wordings in response to the public's questions, attempting to bluff his way out of trouble. However, a fact is a fact, and the problems cannot be solved by the art of double-talk, and things will not disappear just because we pretend they do not exist. The Director of Buildings has recently pointed out that erecting a brick wall to seal the UBWs is not a proper way to deal with the UBWs.

Hence, he does have UBWs. Many opine that LEUNG Chun-ying is not the only person who has UBWs; the problem of UBWs prevails in our society and it is not a serious matter. Why should we continue to dwell on the matter? As the Chief Secretary has repeatedly said, why do we not drop it? Many people hope the Government will solve some social issues as soon as possible and concentrate on handling matters of public concern.

President, it is true that what the Chief Secretary has said reflects the views of many people. However, she is only half right. Apart from handling matters of public concern, there is also one important issue, that is, does the Government still has integrity. I believe Honourable colleagues have recently read a news report about a child being interviewed by the media. The child said, "So long as he gives me a flat, I do not care if he has lied." I trust we all know the child was talking about the Chief Executive. To our surprise, the child said that he would not care if the Chief Executive has lied so long as he has a place to live. What kind of society is this? Do we want our society to become like that?

The Chief Secretary is a mother. If her son tells her that he is going to school but he actually skips class in order to buy her a birthday present, will the Chief Secretary praise him if she knows that he has skipped class to buy her a birthday present? Will she do so? Will she correct him instead, asking him to admit that he is lying? I think she must have social conscience and be accountable to our society. How can she be accountable to our society if she regards concealment as negligence, and lying as negligence?

Has our society turned to be unscrupulous in attaining the end, and lies can be tolerated if one has a place to live? Is it that as long as he is a good person and readily works for us, we need not bother whether he has obtained his present position by cheating? Do we want to live in a society which turns a blind eye to deceptive practices? Do we want to act like ostriches, burying our heads in the sand in the face of such matters?

I really wish to tell Honourable colleagues, moral degeneration is the origin of social corruption. I earnestly do not want to see a city of liars or a society of no integrity. We cannot do anything as the Chief Executive is returned by a small-circle election, and he does not need to be accountable to the public. Besides, the election system has returned a group of Legislative Council Members who will defend him no matter what, making it impossible for us to impeach him. As such, everyone says that we should drop the matter and do some real work; yet, we definitely should not do so, otherwise, what will become of our society?

A group of people have sent me this thing and they asked me to bring it to this meeting for everyone to take a look. It was once a cute puppy but it has now turned into a wolf. There is nothing wrong with the wolf itself, but it was born with an original sin. Its original sin is that it is returned by a small-circle election; so the two are now bundled together. Not only so, the worst thing is that it has committed the offence of lying, thus, it has to wear a headgear. As many people have pointed out, the Chief Executive has two major problems. First, he is returned by a small-circle election and he does not need to be accountable to the public; second, he is unwilling to admit his mistakes but a group of people are defending him. How can such a society go further?

Indeed, there are some imminent livelihood issues. As Mr Jeffrey LAM has said earlier, the Chief Executive would deliver his Policy Address next week.

I believe all Members present can feel the urgency and wish to solve the livelihood issues together. Nonetheless, we cannot tolerate the Chief Executive's lies and lack of integrity, and we should deal with this matter. We cannot mix up the two things and suggest dealing with the livelihood issues first without bothering about the integrity issue. I trust that the livelihood issues and the integrity issue should both be dealt with; otherwise, the social values will be corrupted even if the livelihood issues have been alleviated. What is the point? I hope all of us sitting here would ask ourselves these questions: we and the next generation are living in this society; the Chief Executive has gone so far as to make the child say that he does not mind if the Chief Executive had told lies as long as he has a place to live. How do we feel? If everyone says that he does not mind if the Chief Executive had made mistakes so long as he gives me some advantages, is this the society we expect to establish? Should there be such an extent of moral degeneration, attaining the goals by hook or by crook?

No matter how earnest I speak, I cannot change some Members' attitudes. So long as the system remains unchanged, the Members will not change their attitudes. The only way out is to change the system and the small-circle election, so that members of the public can elect the Chief Executive through one-person-one-vote; this will hopefully solve the problem. Unfortunately, LEUNG Chun-ying has hinted that the forthcoming Policy Address would only address people's livelihood, instead of dealing with political reform. The Government is going to procrastinate further in respect of many issues including political reform. I can only tell Honourable colleagues that we should not be discouraged, and we should continue to strive for a democratic system, to enable the public to monitor the Government, Members of the Legislative Council and the Chief Executive, with a view to establishing a democratic society.

I so submit, President.

**MR CHRISTOPHER CHEUNG** (in Cantonese): President, today, we are discussing the impeachment proceedings launched against Chief Executive LEUNG Chun-ying as a result of the mistakes he made on the unauthorized building works (UBWs), which boils down to an integrity issue. This will certainly arouse heated debates among some Members. Undoubtedly, Chief Executive LEUNG Chun-ying has not given a clear account of the UBWs issue, thereby giving people an impression that he lacks sincerity and commitment.

However, if we merely base on the UBWs issue and the New Year march and jump to the conclusion that Hong Kong people support the impeachment proceedings, I am afraid that this is unconvincing. We saw clearly that on New Year's Day, there were two groups of people: one group opposed the Government and the Chief Executive, and the other group supported the Government and the Chief Executive. According to the statistics released by the police, 26 000 people participated in the march opposing the Chief Executive and 8 560 people joined the march supporting the Chief Executive. On the other hand, statistics released by the relevant organizers showed that the number of people participating in the marches supporting and opposing the Chief Executive were 130 000 and 60 000 respectively.

As a matter of fact, after New Year's Day, many other rallies have been organized one after the other on different topics. While some of them strive for social security, others fight for the employment of workers, such as the concern on standard working hours. Another very important point is that, there is no way we can find out the views of the majority of people who had not participated in the rallies. With so many questions in mind, some people ask me how I would assess these activities and what lessons have been learnt.

Being a Hong Kong citizen, a representative of the industry and a Legislative Council Member returned by functional constituencies (FCs) in accordance with the law, I am obliged to identify issues of the greatest concern to Hong Kong people. We, Members returned from FCs, have professional knowledge and we respect people with different views. Also, we can distinguish right from wrong, and know how to prioritize the importance of various issues.

We will think rationally and pragmatically to find out people's urgent concern and issues of utmost importance to them. In order to get a comprehensive and unbiased answer, I had commissioned a local university to conduct, under the supervision and guidance of a professor, a questionnaire survey on four days between 31 December and 3 January with the help of an advanced Computer Assisted Telephone Interview (CATI) system and over 5 000 calls were randomly made for the questionnaire survey. Of these 5 000-odd calls, we successfully contacted over 2 300 Hong Kong people and a total of 545 respondents were willing to accept our telephone survey. The response rate is around 24%.

Some people may ask: Does the march held on 1 January have any implication on the survey result? According to our preliminary analysis, the findings apparently have not stressed too much on political issues. Also, a comparison has been made on the age of the respondents and that of the general population, and we found that they are basically consistent.

Our questionnaires are in the form of open-ended questions to allow flexibility of respondents in answering the questions. The questionnaire is divided into two parts: What is your greatest concern at the moment, and what issues do you think are the most important. After the respondents have answered the first part, our interviewers will follow up on the details.

According to the findings, how many people wanted LEUNG Chun-ying to step down? The result was 1.5%. Even if the UBWs issue was taken into consideration, the result only rose by some 1%. If we further included issues relating to politics, systems and administration of justice, such as election of the Chief Executive by universal suffrage, abolition of FCs, election of Legislative Council Members by universal suffrage, stepping up the implementation of the "one country, two systems" principle, respondents who expressed concern only accounted for 11.9%. Housing and accommodation were naturally issues of the gravest concern to the respondents. Over 55% of the respondents considered that housing and accommodation would easily pinch their nerves. The next items on the list were social security and employment of workers, which accounted for 17.5%, and the degree of concern was much lower than housing and accommodation. Issues relating to economy and commodity prices came third with 9.3%. With regard to housing and accommodation, the respondents were most concerned about the building of additional public rental housing or low cost housing flats, which accounted for 20.4%, the highest percentage of all. This was followed by the suppression of property prices, accounting for 17.4%, and expediting the construction of Home Ownership Scheme or Sandwich Class Housing Scheme flats, accounting for 6.4%. It is not difficult for us to find out from the abovementioned figures what Hong Kong people want.

If Members consider these theories too abstract, then let me share some personal experiences with you. Although I am a newcomer in this Council, I have served in the securities industry for more than 40 years. Our financial market had survived the collapses of the stock market in 1973 and 1987; the ravaging of Hong Kong by "international predators" in 1998 and the financial

tsunami in 2008. This owes much to our sound administration system. Are we going to launch impeachment proceedings against the Chief Executive and demand him to step down because of a minor UBWs incident, thereby sabotaging the established and sound administration system and destroying the core values of Hong Kong? Let us not mention the right or wrong relating to this incident, but at least our rivals will give us a round of applause.

I would like to play a game with Members. I am going to read out some numbers to see if Members can recall them. The numbers are 8 000, 2006, 112, 115, 104, 60 and 6 million. Members may not know what these numbers refer to, but they are actually of particular importance to the operation of the Government. The number 8 000 is the amount of money given out by the government of our neighbouring city, Macao, to each member of the public. 2006 is the year when Macao's per capita GDP overtook Hong Kong for the first time. The number 112 is associated with Hong Kong's Happy Planet Index, as we rank 112th among 151 places around the world. Simply speaking, Hong Kong people are not happy. The United States, which is perceived to be a happy country, only ranks 115th, whereas Ethiopia, a poor country, ranks 104th. China, whose governance has been called into question, ranks 60th. On the Mainland, there are currently 6 million students graduating from universities each year. Even if only 1% of them graduated with a distinction, I trust that Mainland professional expertise will overtake Hong Kong in less than two or three years.

At times when the global financial markets are volatile, I believe matters of our greatest concern is not how serious Chief Executive LEUNG Chun-ying's UBWs problem is, or whether members of the public accept his responses as they should have their own decisions. Mr LEUNG Chun-ying should have clearly heard people's voices and aspirations. I hope that the first Policy Address to be released by the new Government will promptly respond to problems relating to society and people's livelihood, which are matters of grave concern to members of the public, and identify the best way to revive Hong Kong and bring us out of the quagmire.

Lastly, I stress that if impracticable and irrational disputes continue, the ultimate victim will be the general public. Hong Kong cannot afford to lose.

President, I oppose today's impeachment motion.

**MR TAM YIU-CHUNG** (in Cantonese): President, by invoking Article 73(9) of the Basic Law, the pan-democratic Members launch the third attack on Chief Executive Mr LEUNG Chun-ying. As one of the members involved in the drafting of the Basic Law and being the Chairman of the Committee on Rules of Procedure (CRoP), I wish to take this opportunity to talk about the historical background and reasons for conferring the impeachment power on the Legislative Council by the Basic Law and the procedure to be followed by the Legislative Council in exercising this power.

Before its unification with China, Hong Kong had been under colonial rule for more than 100 years. As the colonial government was only accountable to the British Government and the Governor of Hong Kong was the representative of the British Crown to exercise its ruling power over Hong Kong, a monitoring mechanism had not been put in place in the judiciary or the legislature of Hong Kong to monitor the conduct of the Governor, let alone to impeach him. Even if the Governor of Hong Kong had any misconduct or dereliction of duty, nothing could be done by the legislature and the judiciary.

In the Sino-British Joint Declaration and its Annex I, Elaboration by the Government of the People's Republic of China of its basic policies regarding Hong Kong, signed by the Chinese and British Governments in 1984, there was no mention of conferring the impeachment power against the Chief Executive on the judiciary and legislature of Hong Kong after the unification of Hong Kong with China.

However, in order to truly realize the spirit of Hong Kong people ruling Hong Kong, the accountability of the Chief Executive and the Government of the Hong Kong Special Administrative Region (HKSAR) to the people, as well as the mutual checks and balances and co-ordination between the executive authorities and the legislature, the Central People's Government and the Basic Law Drafting Committee incorporated the provision concerning the impeachment of the Chief Executive in Article 73(9) in drafting the Basic Law. However the impeachment clauses in Article 73(9) of the Basic Law are only guiding arrangements in principle. As for the specific procedure of the *modus operandi* in practice, it should be referred to the CRoP of the Legislative Council and the executive authorities to decide after thorough and in depth deliberation.



As the impeachment power is the most solemn power conferred by the Basic Law on the Legislative Council, if such power is exercised, it will have tremendous impact on Hong Kong. Therefore, over the past 10-odd years after the reunification with China, the CRoP and the executive authorities have conducted many thorough and in-depth discussions on the specific procedures of the *modus operandi* of the impeachment mechanism, but no consensus has been reached yet. There are concerns over the definition of "serious breach of law" and "dereliction of duty" in Article 73(9) of the Basic Law; what conducts of the Chief Executive constitute "serious breach of law" and "dereliction of duty". If the Legislative Council passes a motion for investigation, it will give a mandate to the Chief Justice of the Court of Final Appeal to form an independent investigation committee. How should the committee carry out the investigation? What is the scope of power of the committee? Should the notice period for activating the impeachment proceedings and the motion of investigation be longer than the 12-day notice period for other Legislative Council motions, so as to allow ample time for the Chief Executive to consider whether or not he should resign?

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

After discussing for a long period of more than 10 years by the CRoP of the Legislative Council and the executive authorities, a consensus has yet to forge on the *modus operandi* of the impeachment mechanism. That is not because the CRoP holds discussions without reaching decisions and makes decisions without putting them into practice, neither has it purposely let the Chief Executive "off the hook"; rather that is because the CRoP understands that impeaching the Chief Executive is an issue of enormous importance. Hence, the power of impeachment should only be invoked when the Chief Executive has committed some specific, definite and grave mistakes. The impeachment proceedings cannot be hastily activated on grounds of some aggressive political accusations, lest the solemn impeachment power and mechanism of the Legislative Council will be turned into a tool of political struggle.

However, before the pan-democratic Members moved the impeachment motion against Mr LEUNG Chun-ying, they had not requested the CRoP to discuss the procedures of the *modus operandi* of the impeachment mechanism.

This has run contrary to their past practice of laying great emphasis on the so-called "procedural justice". To a certain extent, this illustrates that the pan-democratic Members also understand that the nature of the so-called "charges" on which they base to activate the impeachment mechanism against LEUNG Chun-ying cannot meet the requirements of Article 73(9) of the Basic Law and they activate the impeachment mechanism merely for the objective of launching a political struggle to undermine the prestige of governance of Mr LEUNG Chun-ying and the SAR Government.

Whether the pan-democratic Members can justify their grounds for activating the impeachment mechanism hinges on whether they can prove that Mr LEUNG Chun-ying has committed "dereliction of duty" and "serious breach of law". As Article 73(9) of the Basic Law and the laws of Hong Kong have not laid down the specific definition of "dereliction of duty", we can draw reference from the definitions of "dereliction of duty" in the Criminal Law of the People's Republic of China and the common law, which is "abuse of power and position, dereliction of duty, disclosure of state secrets and practice of favouritism by public officers" and so on.

With unauthorized building works (UBWs) at his residence at the Peak, Mr LEUNG Chun-ying has indeed breached the Buildings Ordinance; it is a mistake but not a "dereliction of duty" or "serious breach of law". The words and deeds of Mr LEUNG Chun-ying in the entire UBWs incident are totally unrelated to the aforementioned definition of "dereliction of duty". As there are also Members in the pan-democratic camp who have UBWs and have been inconsistent in their words, have these Members also committed "dereliction of duty" and "serious breach of the law"?

Besides, the three charges made by the pan-democratic Members against Mr LEUNG Chun-ying include repeatedly giving false statements when answering questions put to him in connection with his UBWs incident during the Chief Executive Question and Answer Session; winning the Chief Executive Election last year by making materially false or misleading statements; as well as directing, causing, authorizing or permitting the Office of the Chief Executive-elect to make false or misleading statements in response to public inquiry concerning the UBWs in his mansion at the Peak.

However, we find these three charges totally unfounded. First, on Charges 1 and 3 concerning Mr LEUNG Chun-ying making false or misleading statements when he was the Chief Executive-elect, as the pan-democratic refused to accept Mr LEUNG Chun-ying's explanation regarding the UBWs issue, they accuse him of making false and misleading statements without the support of any concrete evidence. This is very unfair. If the pan-democratic Members have evidence to prove that Mr LEUNG Chun-ying did make false statements or had misbehaved in public office, why not take the case to court directly?

As regards Charge 2 which accuses Mr LEUNG Chun-ying of winning the Chief Executive Election last year by making materially false and misleading statements, it is downright absurd. If this charge can be established, why did the Court of Final Appeal rule against Mr Albert HO in his election petition against the Chief Executive last year?

On the whole, we find that the pan-democratic Members have no grounds to activate the impeachment mechanism against Mr LEUNG Chun-ying. These Members insist on moving this motion while knowing it too well that the chance of the motion being passed is almost impossible. Their sole purpose is to use the most solemn constitutional power conferred by the Basic Law on the Legislative Council as a tool of political struggle. Such an act of disregarding the honour of the Legislative Council for the sake of making political gains should be scorned.

Deputy President, the Democratic Alliance for the Betterment and Progress of Hong Kong is against this motion of impeachment.

**DR KENNETH CHAN** (in Cantonese): Deputy President, many pro-establishment and loyalist Members are sure that there is no way this impeachment motion can be carried and opine that we might as well give up. They think that we waste the time and resources of this Council, disappoint the public by giving them the impression that this Council does no real work but plays with politics. Since it is out of the question that the motion will be passed, why should we still move it then? If this logic is pushed to the extreme, there will be little that we need to do. We might as well be like the deputies to the National People's Congress or member of the National Committee of the Chinese People's Political Consultation Conference, raise our hands to show support, and

then everything will be fine with peace restored to the earth. Is this the best manifestation, the highest standard and best indicator of harmony and stability?

Deputy President, earlier a reporter talked to me about an independent research institute known as the Fraser Institute, which I do not think has a Chinese name. That Institute has made an assessment of the freedom of Hong Kong over this year. Among the top 10 countries or places, Hong Kong still ranks first in economic freedom but in respect of human rights and freedom, we rank 10th among the top 10. This is already a warning sign. If this Council and the Government of the Hong Kong Special Administrative Region do not pay close attention to this warning signal, have we truly performed our duties for the development of Hong Kong?

As a matter of fact, we can question why this Council does not concentrate its efforts on promoting democracy and freedom in order to achieve the goal of Hong Kong people ruling Hong Kong as soon as possible. I fully understand the people's aspirations and feelings in this respect and even more so, their expectations of the democratic Members. However, I have to explain about the helpless and desperate feeling of the public. Because of the separate voting system of this Council, Members returned by functional constituencies are elected by a small-circle election, this Council is monopolized and controlled by the conservative power and that is the result of an unfair election system. Besides, Mr LEUNG Chun-ying got 689 votes in the small-circle election and won the office of the Chief Executive, and the Government under his leadership has never gained adequate legitimacy from the people of Hong Kong. Does this situation only happen today? Does this problem only happen today? Of course not.

Many colleagues present here today and the public who are listening to and watching this debate may feel that we have incessantly talked about this issue. Yes, for the past 15 years we have repeatedly done so. Deputy President, it has been 15 years after Hong Kong returned to China and this inherent defect of our political system has slowly eroded the will power of many members of the public and some of our colleagues, giving us a sense of helplessness and has also corrupted the politics in Hong Kong.

As some Members are certain that today's impeachment motion will not be passed, they think that time and efforts should no longer be wasted, they even said jokingly we might "just believe him". It is no big deal that he forgets the birthday of his wife or his wedding anniversary. I find it totally baffling and

absolutely absurd that Member would present such standard of argument in their speeches to prove that there is no problem with Mr LEUNG Chun-ying's integrity. Must we reconcile ourselves with this? Do all the 70 Members here wish to see the legislature continue to degenerate after our reunification with China?

Deputy President, to us the impeachment motion signifies hope instead of desperation or disappointment. All over the world, the self-conceited dictators and their supporters and loyalists always wish to use the war of attrition to erode the voice of the opponents, to make the people lose hope and the will power to fight on, and eventually feel despair. It is like a psychological warfare where an animal is locked in a cage and they shock the animal when it is hungry or thirsty and wants to eat or drink, and finally it does not dare to fight or to eat or drink again. How can this cage-like political framework be the making of the members of the legislature? Deputy President, we must understand a very simple truth, which is we may not succeed if we fight but if we do not fight, we will never succeed. We do not yield to fate and that is why we stand out to clear away this eerie mist of darkness and despair. Some Members are not playing with "word deception" but playing with "word magic" and they are doing magic.

The Legislative Council today has to take up a solemn constitutional duty and we also expect that this legislature will perform this duty. Even if it will bring about the procedural inconvenience when we rid this dishonest Chief Executive of his power, we have to do so because we do not want this bad practice to take root and as more and more bad practices are accumulated, we will muddle along without opening both our eyes. The objective of today's impeachment motion is to clear away the bad practices of this political system, to bring order to the governance of Hong Kong out of this chaos and establish the right practice for the constitutional system of Hong Kong.

Members should not let LEUNG Chun-ying and those officials who blatantly lie off the hook. They deliberately lie to this Council and mislead the public in an attempt to cover up their mistakes to get out of trouble. How can it be negligence? He built a wall to cover the hole, this is an act of "covering up", and then he said that he had sealed the hole and handled the problem. He is an adult with ample professional knowledge and experience and he ran for the Chief Executive. Do we not feel that it is very funny for a person like him to do such a

thing? Seriously speaking, he apparently has problems with his integrity and moral standard.

This impeachment motion, the first of its kind since the unification, signifies that this Council is still alive and that people of Hong Kong have not given up on themselves. It also means that we have not yet given up our ideal to strive for a better governance. The contents of the impeachment motion concern the constitutional requirements of the Chief Executive and the quality of governance of Hong Kong. They also clearly indicate that the words and deeds of Mr LEUNG Chun-ying have corrupted our standard of governance.

Someone says to me, "What is the offence of misleading this Council? Kenneth, as you teach politics, have you not taught your students that in the political environment around the world today, great emphasis has been laid upon the speaking skills and the way of expression; as well as how to present the contents of a speech in such an order that are to the greatest advantage of politicians and make their words more convincing and reasonable?" Even so, people can still tell right from wrong. When do we ignore the right and the wrong? When does the Council only ask the Government to present its views and release open statements with our caring to seek the truth? Some say that as long as the Government does real work, why should they care so much? Why are we talking about the teachings of Jesus and Confucius today? Actually, politics, morality and the law cannot be separated. Even the most prestigious business schools today also attach great importance to commercial ethics and the teachers of commercial ethics are all professors of philosophy. If the commercial sector adopts such practice, why should the political circle be different?

Deputy President, in a traditional council with members returned from democratic election, an official who has misled the council will, disregarding his ranking, have to face a motion of no confidence which demands for his resignation or in the most severe case, face a motion of impeachment, just like the situation of today. Take the United Kingdom for example. The most recent motion of impeachment was proposed in 2004 and it was against Mr Tony BLAIR, the Prime Minister. I have recently read some comments by people whom I presume belong to "Pro Leung Kuk" or "Pro Leung Party". They said that as the British Prime Minister is the leader of the governing team, he would not face impeachment and hence we should not be mistaken. Their

understanding was obviously wrong. The motion of impeachment is an ancient mechanism long established in the British political system and has evolved through many stages. It is no doubt that it is a constitutional convention of utmost importance. A council which has a sense of responsibility, commitment and aspiration, and a high ideal will of course handle this issue solemnly.

Take the United Kingdom as an example. Tony BLAIR was highly popular in 2004 and whom had he offended to be impeached? He was impeached because he lied in 2003. He told the British Parliament that they had to support the Labour Party to send troops to Iraq to overthrow the Saddam HUSSEIN government because Iraq had weapons of mass destruction. He even said with great certainty that those weapons were ready to be fired within 45 minutes and could pose immediate threat. It was proved afterwards that Iraq did not have such weapons. As a matter of fact, large amount of evidence and many charges showed that Tony BLAIR and his aides and advisors fabricated such arguments to help them convince the Parliament to support their proposal to send troops to Iraq. The Parliament was misled into making the wrong decision which in turn did a disservice to their country and the people. If the Parliament did not rectify this mistake, it might lead to more mistakes. If social chaos was thus resulted, who should be held responsible? Therefore, BLAIR had voted in the British Parliament in favour of sending troops to Iraq, he had to learn from his mistakes and reflect upon himself and find a moral standpoint to account to his fellow countrymen. We cannot say that BLAIR had only made an inadvertent error and he was also a victim. He was a pragmatic person and he just wanted to do good deeds. People finally let him off on account of his credibility and prestige that he had built over the years. This does not involve religion and is not a matter concerning whether we believe or not.

In conventional councils over the world, political leaders have to face impeachment not only because they have undermined public interest or misled the council in the formulation of policies, but also because of their personal conduct, no matter it is being on the fiddle, extra-marital affairs, addiction to gambling or drink driving. As long as an official has misled the council, he cannot excuse himself by blaming his negligence. A fraud is a fraud and a deception is a deception. One can never use "word magic" to conjure something out to make the council accept, condone and tolerate his behaviour.

People's livelihood and democracy complement rather than oppose each other. I find very strange just now that Mr Christopher CHEUNG and the Chief Secretary for Administration echoed each other, singing the same tune that we should concentrate on dealing with the people's livelihood. I want to tell the public that today, apart from attending this meeting, I also have to handle the issues on education and environment, and attend meetings and discuss various topics with the relevant Policy Bureaux and departments. There is no contradiction among these duties as they all intend to serve the people. Apart from serving the people of Hong Kong, we also wish to see the political system of Hong Kong, including the culture of governance and public policies, maintain at a high standard and even continue to improve. We do not wish to see this Legislative Session suffer from the crisis of political moral collapse.

Deputy President, in the last few weeks during the holiday, I travelled to a small city in southern Poland which is an important tourist attraction. When I passed by the city government building, I saw a big banner outside the building calling upon local residents to vote on 13 January to rid the mayor, whom the people did not trust, off his power. My wife and I exchanged an understanding look and smiled. Poland, which was formerly a communist country, is doing well. After it has practised democracy for a period of time, now its people can decide whether a mayor can remain in office through the "one person, one vote" system. This is a very civilized approach.

Deputy President, with these remarks, I support the motion. I demand a real universal suffrage and that Hong Kong people can rule Hong Kong by democratic means.

**MR CHAN KIN-POR** (in Cantonese): Deputy President, recently I have been told by people on different occasions that they were very worried about the future of Hong Kong. They asked when the political struggles in Hong Kong would end. Do we want the situation to persist? There are many issues concerning the people's livelihood and economic development which should be tackled, why should we not address these problems first.

Although I do not know the exact number of people who have the same view but I hope that we will not underestimate their number because their number



is on the rise. Their worries are well grounded as many people in Hong Kong know that our competitiveness has declined substantially in recent years and now we can only rely on our brand as an international financial centre to support the people's livelihood. In fact, Hong Kong is faced with a precarious future. Once our status as a financial centre is shaken, the next generation will have nothing to rely on to make a living.

In recent years, the leaders in power in Hong Kong lack foresight, failing to solve many deep-rooted problems, and coupled with the incessant internal attrition in the past 10-odd years, our economic development has been stagnant. Just like Hong Kong, South Korea was also named one of the Four Little Dragons in Asia. Its economic development over the past decade is so remarkable that Hong Kong can hardly be on a par with. Singapore is also doing well in its tourism, finance and trade, and its average household income has been well ahead of Hong Kong. On the other hand, because of continuous political conflicts, Taiwan continues to be sluggish in its socio-economic development. In fact, other than South Korea, Singapore and the Mainland, many Asian countries or places are also striving hard for development opportunities. If Hong Kong does not wake up but continues to indulge itself in political disputes, neglecting the development of the economy and people's livelihood, Hong Kong will continue to degenerate.

The main point of today's motion is whether the Chief Executive's acts constitute a serious breach the law and dereliction of duty. As many Members have pointed out, the Chief Executive does have unauthorized building works (UBWs) at his residence and his way of handling is questionable. However, having UBWs and taking bribes and perverting the law are two different matters and the two cannot be compared. As regards making false statements, I think that is attributed to the poor handling of the Chief Executive and the information provided was confusing and not detailed enough. However, we do not have concrete and valid evidence to prove that he has made false statements and hence there is insufficient justification for the activation of the impeachment mechanism against him.

I think the proper way to handle this issue is to let the Buildings Department follow up the UBWs problem in accordance with the law and proper procedures. Under the scrutiny of the public and the media, government departments cannot be partial to anyone. The spirit of the rule of law is the core

value of Hong Kong and what it emphasizes is that everyone is equal before the law. It cannot favour the Chief Executive because he is rich and powerful; neither can it charge him of a more serious crime because of his position. It is adequate to handle the case according to the provisions of the law. Frankly speaking, the Chief Executive has apologized many times for this incident and he has already paid a higher price than ordinary people for the humiliation he has to bear.

I wish to stress a point, everyone knows that having UBWs is against the law but UBWs are very common in Hong Kong. Many people are involved in this problem, including many politicians. I hope we can be honest with ourselves: we are stringent on people's UBWs while being lenient to ourselves for our UBWs.

The dispute about the Chief Executive's UBWs issue has dragged on for over half a year now and the pan-democratic camp had moved a motion of no confidence and demanded to investigate by invoking the Legislative Council (Powers and Privileges) Ordinance. Now it moves the present motion of impeachment. I hope wholeheartedly that after this trilogy, the Legislative Council will go back on track and concentrate its efforts in addressing the various urgent matters in Hong Kong.

I so submit.

**MR WU CHI-WAI** (in Cantonese): Deputy President, this is the first time that the impeachment mechanism under the Basic Law is activated in this solemn Council after Hong Kong's reunification with China, with LEUNG Chun-ying being the first Chief Executive who sets this dishonourable record. Although we know that under the separate voting system, the loyalists and pro-establishment camp will ensure that this motion will not be carried, this motion will be passed by Members returned by geographical constituencies through direct elections who represent the opinions of the great majority in Hong Kong. This carries a great symbolic significance.

At the Chief Executive Election forum held in March this year, LEUNG Chun-ying accused Henry TANG of having unauthorized building works (UBWs) at his residence and he said, "the problem about your UBWs is not

simply a UBWs issue; rather you openly lied to the public and concealed your UBWs. Not until the media published full reports with pictures on your UBWs did you honestly admit that you had concealed the fact."

However, LEUNG Chun-ying has "openly lied to the public" and concealed his own UBWs problem several times in this Chamber and on many occasions. He has insulted the wisdom of the general public time and again. Even when "the media published full reports with pictures" on the UBWs at his residency, he refused to "honestly admit that he had concealed the fact".

Just now many pro-establishment Members kept saying that this was simply a UBWs issue which was of no significance, and many people in Hong Kong have UBWs in their flat as well. It is a fact many people do have UBWs in their flat, but when their UBWs are discovered, what should they do? They have to face the Buildings Department honestly and when being asked, they have to admit that they have UBWs, right? Can they build a brick wall to hide it and pretend that there are no UBWs? Can they tell others that after building a brick wall, they can regard the UBWs non-existent? We once asked the Director of Buildings at a meeting of the Panel on Development whether building a brick wall is regarded as handling properly the UBWs and the Director clearly answered that it was not the proper way to handle the UBWs and neither was it an acceptable way to do so. Why LEUNG Chun-ying, being a professional surveyor himself, would think that he had properly handled the UBWs by building a wall? Very obviously, he was lying to the public and hiding the facts. He attempted to hide it so that the media did not have the chance to take photos from outside and reveal that there is a hole at his residence.

No matter what, he has now been elected the Chief Executive. After he was elected, he had many opportunities to explain and admit his mistakes but he did not choose to do so. Even when he made public apologies, he only apologized for his gross negligence in this UBWs incident.

In court, if we are wrong, I believe that we can only plead with the Judge for leniency and apologies for our negligence. For example, in the case of jay-walking, we can plead that we have forgotten to look at the traffic lights before crossing the road and so we ask for the Judge's forgiveness. We can only say so; we cannot say that we are only negligent and it is not wrong to jay-walk. However, for the past more than half a year, the Chief Executive's responses have

all along demonstrated he has such an attitude, which is to tell others that one can use the excuse of "negligence" to evade the legal responsibility.

Let us step back and think. Assuming that they are right and everyone should trust the Chief Executive that he has done nothing wrong. However, we always say that we do not wish to see that the final verdict of the Court is based on a certain person's political motive or his background, and society still believe that the Court's verdict is based on facts.

Regarding today's motion on impeachment of the Chief Executive, what we aim to pass is not the impeachment of the Chief Executive but the process of impeaching the Chief Executive. Upon passing the motion, we will give a mandate to the Chief Justice of the Court of Final Appeal to form an independent investigation committee to investigate whether the charges in the motion are true and comply with Article 73(9) of the Basic Law. If so, it has to report the findings to this Council for final scrutiny and see if it can be passed by two-thirds of all Members. If it can be passed, it is then a fact and will be reported to the Central People's Government.

From my proposal of the motion on "Vote of No Confidence in the Chief Executive", and then Mr LEE Cheuk-yan's proposal to demand for an investigation of the incident by invoking the Legislative Council (Powers and Privileges) Ordinance to today's motion of impeachment, the purpose of my motion was to reveal Members' views about LEUNG and whether they trust him based on the facts before our eyes. That may be an easier decision because it is based on our personal subjective judgment. However, if the Legislative Council (Powers and Privileges) Ordinance can be invoked to investigate the incident or if today's motion of impeachment can be passed, we are actually doing justice to LEUNG Chun-ying. Particularly when colleagues of the pro-establishment camp have so much confidence in LEUNG Chun-ying and think the public believe that he is a good man and there is no problem with him, why should we not use this good approach and allow the Chief Justice to do him justice? When Members vote down this motion of impeachment and not to form an investigation committee, it will make it impossible for LEUNG Chun-ying to remove the stigma of being "a big liar". Can they really help LEUNG Chun-ying by voting down this motion? In so doing, they cannot help LEUNG Chun-ying but will affect the governance of the entire government and the whole Civil Service

instead. It will not improve the circumstances that LEUNG Chun-ying is under and he will continue to carry this stigma with him. Why should it be so?

The pro-establishment camp always say that LEUNG Chun-ying's mistake is not fatal, but I want to point out that when XI Jinping recently chaired a seminar on economic work in Guangzhou, he talked on the various problems about corruption and governance crisis facing China today and how they should be handled. His "mottos" was "not to evade conflicts, not to cover up problems, prepare for the worst and strive for the best results, and grasp the initiative tightly". What does that mean? That means that there should not be any concealment again. Where is the initiative? It was originally in the hands of LEUNG Chun-ying but he chose not to use it. Now that we want to use it for him but other Members oppose it and do not allow him to use it. The result is that his situation continues to develop in the adverse direction and deteriorate.

In my view, the pro-establishment camp have turned a deaf ear even to the advice of XI Jinping advice and not learned from the experience of "Grandpa" over the past 30 or 40 years in ruling the vast territory of China. Now "Grandpa" has concluded that we must face up to the problems of corruption and social conflicts and should no longer adopt the evasive and secretive approach in the past. The pro-establishment camp disregards this wisdom and turns a deaf ear to it. I would like to tell the pro-establishment camp that they will only do disservice to the Chief Executive out of good intentions. You think that you love LEUNG Chun-ying deeply but your action is doing him harm instead. Why do you do so? Worse still, you not only do him harm but you are also doing disservice to the people in Hong Kong. What can be done to deal with this situation?

Concerning the Government's governance, I believe that everyone is very clear that integrity is very important and is an essential pillar of social civilization. I have read the website of the Civil Service Bureau and on its very first page it talks about honesty and integrity, which is the highest standard of the Civil Service.

Concerning the integrity issue of the Chief Executive, many say that he is a person of integrity and many say otherwise. However, on the whole, everyone in this Council agrees that he has made mistakes when answering the question put to him in this Council. I remember Mr Paul TSE said last time that he did not

trust the Chief Executive but this Council needed not do anything else. I think that no matter we trust him or not, since he has made mistakes, the best and the most effective way to do him justice is to form an independent investigation committee with credibility to investigate today's charges and make a judgment. If the Chief Justice, after undergoing a very stringent legal process, rules that the Chief Executive has violated Article 73(9) of the Basic Law and has seriously breached the law and committed dereliction of duty, he will of course be faced with another political crisis. However, it may turn out that the Chief Executive is found to have done nothing wrong, just as the pro-establishment camp have said. But if LEUNG Chun-ying is not given this chance, no matter how good or bad his governance is in the future, he will always carry this stigma with him.

Therefore, with these remarks, I support the motion of impeachment. I also wish to borrow Confucius' words to end my speech, "I do not know how a man without truthfulness is to get on"<sup>5</sup>, which means if someone has no credibility, he will have no footing in society and can accomplish nothing. Therefore, I hope that the Chief Executive can accept the investigation of an independent investigation committee formed by the Chief Justice to do him justice through investigation. Thank you, Members and thank you, Deputy President.

**MR YIU SI-WING** (in Cantonese): Deputy President, today is the first Legislative Council meeting in the year 2013. As we step into a new year, we all look ahead and plan for the future. The public attention is also drawn on the Policy Address to be delivered soon, in the hope that it will bring new prospects to Hong Kong. Regrettably, at this first meeting in the new year, the Legislative Council does not look ahead but continues to entangle itself in the hubbub of the incident that has troubled us for half a year.

Deputy President, although I am not a legal professional, I also understand that the impeachment of the Chief Executive is a very solemn power conferred upon the Legislative Council by the Basic Law and it is also a very serious charge against the Chief Executive. Hence this mechanism can never be lightly activated unless there is full and concrete justification; otherwise it is a disrespect

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<sup>5</sup> <<http://ctext.org/>>

for the Legislative Council and the Chief Executive and an irresponsible act to the community.

Simply speaking, before the impeachment mechanism is activated, it must be proven that the Chief Executive has committed serious breach of law or dereliction of duty. In respect of the unauthorized building works (UBWs) issue involving the Chief Executive, first of all, having UBWs is totally unrelated to the duty of the Chief Executive and cannot be considered as "serious dereliction of duty"; besides, although having UBWs is a violation of certain government regulations, the UBWs in question did not pose any safety problems to the building involved and some of the works had being dealt with, and the argument of "serious breach of law" is indeed arguable. Mr Ronny TONG also had reservations at first as having UBWs was not a serious crime and the UBWs issue had been there before the Chief Executive assumed the office. Hence this impeachment lacks legal justification.

Deputy President, the breach of law and dereliction of duty as stated in the original motion were mainly about the Chief Executive giving false statements and answers to this Council. In this connection, Mr Albert HO and Mr LEUNG Kwok-hung had respectively lodged an election petition and applied for judicial review earlier, accusing Mr LEUNG of giving false statements but both of them had lost the lawsuit. The Court of First Instance ruled that the election petition lacked reasonable arguability. Afterwards, the Hong Kong Association for Democracy and People's Livelihood and the People Power complained to the Independent Commission Against Corruption (ICAC) that Mr LEUNG was suspected of giving false statements and in the end ICAC halted the investigation due to insufficient evidence.

The Court's judgment and ICAC's investigation both show that there is insufficient evidence in respect of the accusation about Mr LEUNG making false statements, let alone the establishment of the accusation about his serious breach of law or dereliction of duty. The Court and ICAC are both respected for their high credibility and I hope that everyone will respect their decisions and the spirit of the rule of law in Hong Kong.

Deputy President, the public expect the Legislative Council to effectively monitor the governance of the Government but not to paralyse the Government's operation. The Christmas Message delivered late last year by Reverend Paul

KWONG, the Archbishop of the Hong Kong Sheng Kung Hui had stimulated our thoughts. Reverend KWONG pointed out that for most of the past year, Hong Kong society had left people feeling disgusted; all levels of society had been mired in mutual distrust and disrespect. He also urged the people to stop and ponder whether there were worthwhile and meaningful matters to attend to rather than "rubbing salt into the wound" on some controversial issues.

There are many more important problems that need to be handled expeditiously by the Government. A survey conducted by a newspaper earlier found that, two thirds of the people interviewed hoped that the Government would handle the livelihood issues more expeditiously and one third of the people hoped that it would give priority to handling the housing problem in the year ahead. On the contrary, those who wished to have the political problems addressed first only represented 11%. From this we can see that no matter how loud the cry on political issues is, the biggest aspiration of society is the improvement of people's livelihood.

Looking around us, many countries had held elections for their leaders last year, and no matter how heated the arguments among the different camps were during the elections, people have shifted their focus back onto the livelihood issues after the election. Even though the Republicans and the Democrats of the United States had great political differences between them, they could still compromise in order to defuse the crisis of the financial cliff. Can Hong Kong follow this global trend and can the various camps set aside their political prejudice and accord top priority to the livelihood issues?

Some may blame the problems of Hong Kong on the absence of direct election and wishfully think that all problems will be readily solved by changing the head of the Government. Unfortunately, the fact is not so. We can look at Japan. Japan has changed its Prime Minister almost every year over the past seven years, but none of the reforms initiated have been carried through, leading to political instability and the continued decline of its economy.

Deputy President, usually people hold processions and rallies to express their discontent. However, from late last year to the New Year Day this year, some pro-Government groups have joined the processions, which they rarely did so in the past. Their aspiration is simple, that is, the community should discontinue blowing up the Chief Executive's UBWs issues and stop the various



acts of hindering the governance of the Government, so that the Government can concentrate on addressing the people's livelihood issues. I believe that this is not only their aspiration but also the biggest hope of many people for the new year.

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

**MRS REGINA IP** (in Cantonese): Deputy President, I speak on behalf of the New People's Party to state our objection to this impeachment motion. Before making this decision, we have thoroughly studied the contents of this motion and understood the background of the impeachment mechanism and when this mechanism should be activated.

Deputy President, you also know that the impeachment mechanism was adopted after Hong Kong's unification with China and it was non-existent during the British Hong Kong rule. I believe that the high officials who introduced this mechanism when drafting the Basic Law had made reference to the British and American systems and the philosophy behind them. Let us look at the United Kingdom and the United States; these two countries have rarely activated this mechanism. The American Congress has only activated this mechanism against their President twice and one of the Presidents impeached was Andrew JACKSON in 1868. In the voting of the Senate, there was one vote short of dismissing him but the Senate finally decided not to impeach Andrew JOHNSON — sorry, it should be Andrew JOHNSON, not Andrew JACKSON. The Senate's statement was worth our rumination, which went, "The Senate decided that it would not impeach JOHNSON merely because it disagreed with him, as though it were conducting the sort of no-confidence vote common in parliamentary systems. It resolved, instead, that impeachment required proof of specific wrongdoing; and that this wrongdoing must be serious."

This is very clear that after the American Senate had studied the many charges against Andrew JOHNSON, it felt that impeachment was of a very serious nature because it was not like casting a vote of no confidence in someone in a legislative assembly — even a student union can cast a vote of no confidence in someone — when we do not like or trust someone or do not agree to what he does, we can express our lack of confidence in him. The Senate's statement also

pointed out clearly that there should be concrete evidence to prove that the one to be impeached had an actual wrongdoing — specific wrongdoing and that this wrongdoing must be serious — and this condition also complies with the American Constitution. It is stated in Section 4 Article II of the Constitution of the United States of American that, "The President, Vice President and all civil officers of the United States, shall be removed from office on impeachment for, and conviction of, treason, bribery, or other high crimes and misdemeanors." Impeachment is a very serious matter is only called for when treason, bribery and other serious high crimes are involved.

What about the United Kingdom? The British Parliament had also proposed the motion of impeachment twice in history — one in 1848 and the other in 2004, which some colleagues have also mentioned just now concerning the British Parliament's proposal to impeach Tony BLAIR, the Prime Minister then.

From this we can see that only when there is solid evidence to prove that a president, prime minister or a Chief Executive has indeed committed a very serious crime that the power of impeachment can be invoked against him. When I listened to many colleagues' speech earlier, I found that although many were dissatisfied with how the Chief Executive handled the unauthorized building works (UBWs) issue or his performance when he came to Legislative Council, or they think that he lacks integrity, it is not adequate to call for an impeachment.

Let us look at other countries. In South Korea in Asia, President ROH Moo-hyun was impeached in 2004. However, after he had been impeached, the Court of Constitution of South Korea immediately overturned the motion of impeachment of the Korea parliament and reinstated his position and duty. Although before the impeachment the popularity and rate of support of ROH Moo-hyun had remained around 30% — the rate of support of our Chief Executive is higher than that — many South Korean people thought that the impeachment was the result of a power struggle and soon after that both ROH Moo-hyun's popularity and rate of support rose.

There is another example involving the South American country Paraguay which happened recently. The parliament of Paraguay impeached their leader, Fernando LUGO, on 21 June 2012 and dismissed him the next day. However, the neighbouring countries of Paraguay thought that this action was equal to a

coup and they employed various means to protest, including recalling their ambassadors and refusing to recognize the new government. In other words, even the impeachment mechanism in some countries is regulated by the constitution, very often this mechanism becomes a political tool. I do not think we can support members of a legislature to impeach a leader because they do not agree with this leader, or do not trust him or are not dissatisfied with his answer. Besides, this is not the proper approach to be taken as it is more serious than casting a vote of no confidence. To impeach our Chief Executive without sufficient evidence will, as many Members have pointed out in their speech, lead to unnecessary social unrest and affect the overall development of the economy and other social aspects.

Therefore, after careful consideration of the charges and the constitutional implication, the New People's Party has decided to oppose this motion. I so submit.

**MR FREDERICK FUNG** (in Cantonese): Deputy President, in the whole incident concerning LEUNG Chun-ying, it involves two questions: first, whether there are unauthorized building works (UBWs) and second, whether there is a dereliction of duty in his handling of the UBWs problem.

Deputy President, in respect of whether there are UBWs, after so many debates, even the pro-establishment camp does not dare to defend him by saying that he has no UBWs at his residence. Several things are very clear. First, there are hidden UBWs at House Nos. A and B at No. 4 Peel Rise. Second, after he realized that there were UBWs, he built a wall to hide them and pretended that there were no UBWs — he considered that there were no UBWs. Third, the Buildings Department had asked him about the UBWs on many occasions but has never got a formal answer. In fact, did he deliberately not reveal the facts? Regarding the question as whether there are UBWs, Deputy President, it is very clear that there certainly are UBWs.

Of course, if it was found that he had UBWs at his residence when he was a candidate running for the office of Chief Executive or before he was selected the Chief Executive, what was his crime? This question can be decided by the Government or the Court in the future as whether having UBWs is a criminal matter or not.

However, I think what is more important is that in the course of handling the UBWs problem, he, as the Chief Executive candidate or the Chief Executive, had adopted various means and said many words to hide his UBWs issue and that is a bigger problem because it involves several provisions in the Basic Law including Article 62(1), Article 64 and Article 47(1). Let me read out to you some of these provisions, for example, Article 47 which states, "The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties."

These provisions tell us that the Basic Law has great demands on the Chief Executive's conduct. He should attain a higher standard than ordinary people and set an example by obeying the law. Even if he had not abided by the law before, he has to admit his wrongdoings and see if the Court considers the incident involves criminal matters and whether it will mete out any punishment. If not, whether the Buildings Department will deal with it or mete out any punishment. However, if he uses the tactic of double-talk to conceal the potential problem of the UBWs, the problem will be concerned with his intention to conceal, his wish to conceal and his deliberate action of concealing the UBWs. This is a problem concerning his integrity.

Deputy President, I will quote some of LEUNG Chun-ying's words. At the session in this Council on 16 July 2012, Mr LEUNG Chun-ying said, "I wish to reiterate that in regard to this incident, there was gross negligence on my part," — it seems that he was admitting his fault — "but I have never concealed any possible contraventions. Instead, I sought to deal with all the problems immediately by dismantling some of the UBWs in one or two days." Very obviously, he was concealing the fact that was involved with the potential UBWs at House Nos. A and B at No. 4 Peel Rise and the brick wall used to cover the UBWs.

Besides, at the session in this Council on 10 December 2012, Mr LEUNG Chun-ying also said, "I have never concealed anything and said that those UBWs were or were not built by me. Instead, I have clearly stated all the facts, and this has been the case since the end of June and up to now." But in fact, he knew that he had at least concealed some facts about the wooden garden trellis as claimed.

On or around 20 June 2012, Mr LEUNG Chun-ying made a statement via the Office of the Chief Executive-elect (the Office) that the wooden garden trellis was there when he purchased the properties but it was later replaced by a glass trellis; but the fact was that both the wooden trellis as well as the glass trellis were actually built or caused to be built by him or built by him in the capacity of the owner after he moved into the properties.

Deputy President, at that time the Office also made the following statement, "The relevant structure was originally a wooden trellis, which was in existence when Mr LEUNG purchased the properties in 2000. Because of the severe damage by termites, the trellis was rebuilt as a simple structure of metal and glass. It is by its nature a glass canopy in the garden and is not an enclosed structure; it does not add to the area relevant for the calculation of plot ratio. Neither the plan of the original wooden trellis or of the rebuilt metal and glass structure was submitted, and no official from the Buildings Department had inspected the premises."

We can see that he said that he had no UBWs, which sounded like he had handled already all the UBWs problems, but in fact there were still such works.

Deputy President, I think that it is the highest and most important requirement for him, as a politician and the Chief Executive, to be a man of integrity and he has to and be seen to abide by these basic values. For a man of integrity, he can achieve twice the effect with half of the efforts; without this virtue, he can only achieve half the effect with doubled efforts.

Of course, before talking about the issue of integrity, that is, the several incidents that I have mentioned earlier which I consider to be in breach of the Basic Law, I would like to raise some other questions. In the entire course when LEUNG Chun-ying started to run for the election to being elected the Chief Executive, did the Central People's Government (CPG) accept a person who had UBWs at his residence to be the Chief Executive? Of course, we do not know what the CPG thought but I think there are only a few possibilities and I will try to list out these possibilities.

I have three sets of questions. The first set of question is, first, LEUNG Chun-ying did not think that he had UBWs at his residence and second, LEUNG Chun-ying knew he had UBWs. The second set of questions is, first, the CPG

had asked LEUNG Chun-ying whether he had any problems that he needed to come clean with the CPG before or after he was elected and second, the CPG had not asked him. The third set of questions is, LEUNG Chun-ying answered in the affirmative or negative or did not answer. If we combine these sets of questions together, the situation was LEUNG Chun-ying thought that he did not have UBWs at his residence, when the CPG asked him, he might reply in the affirmative or in the negative, but whatever answers he gave, they were wrong because he thought that did not have UBWs but we all know that he had.

(THE PRESIDENT resumed the Chair)

The second possibility is that he knew he had UBWs at his residence, and no matter whether the CPG had asked him about the situation, or his answer was in the affirmative or in the negative, there were problems. If he answered in the negative, he was lying to the CPG; if he answered in the affirmative, but the CPG still appointed him and agreed that he did not need to tell the public, I think the standards and requirements based on which the CPG appointed the Chief Executive were too low. If the CPG learned of LEUNG's UBWs problem afterwards and still appointed him, disregarding the basic requirements, that is, the provision in the Basic Law and the issue of integrity, it is better for the CPG not to appoint anyone. If the CPG was not aware of the situation, I would also ask it to handle this problem. How can a person be trusted if he lied even to the CPG? Can we believe that a person who lied to the CPG will be a good civil servant, a good official or a good politically appointed officer?

President, I have spoken for so long and all I have been emphasizing is the importance of integrity. Let me cite some personal experience as examples. Of course I should not be compared to the Chief Executive who should be a person of integrity or someone in a high position of integrity, but integrity is very important. I come from a poor background, with no money, no power, no influence and I started out as someone from the grassroots and worked hard to begin my career in alleviating poverty. Thanks to the support of some members of the business sector and professionals whose trust I have earned with my honesty and credibility, I have been able to carry out the work. Let me cite an example. The premises of the second-hand goods shop and the restaurant run by my social enterprise were rented to us at concessionary rents. Of course, apart

from considering the meaningful work of social enterprises, if the owner does not know me or trust me, he would never offer me such a concession.

Moreover, we also run a day-care centre that cares for underprivileged children so that their parents can leave them in the centre when they go to work. They would leave their children there for half a day or the whole day and if they do not trust us, they would not do so. There are many children under our care and there are children on the waiting list. This is the case concerning integrity, getting twice the result with half the effort. On the contrary, if you do not have integrity, no one would leave their children with you because they can never tell when you are telling the truth and when you are telling lies, and they will also doubt the purpose of your actions.

President, if a political leader has an integrity issue, both the general public and his political rivals will certainly keep questioning his every political move, policy and work, and inspect every move of his under a big magnifying glass. Of course, we all know that no one is 100% perfect. Whenever you have any not-so perfect behaviour, these problems will be brought up again. In other words, as long as LEUNG Chun-ying's integrity issue has not been well addressed, more and more political incidents are bound to arise and they will also increase in severity in the future. The public will be more discontented and more serious problems will arise and these problems will continue to haunt him.

We have heard the pro-establishment camp say, "Do not keep harassing him with the UBWs problems as they are only trivial matter." I reiterate that this incident involves two problems. The UBWs issue is one and his integrity is another. Then they will say, "Give him the chance to do his task." But whether we give him the chance to do his task depends very much on what he has done and said before. How many people whose trust has he gained or lost? How many people has he let down? How many people whose heart has he broken? The more people he has let down, the harder will his work get effect. Even if he wants to launch certain policies, he will encounter a lot of resistance and difficulties in implementing them.

President, I believe that you may have seen the news report two or three days ago about a child under the care of the Society for Community Organization who said loudly in front of the media, "It is no problem with lying and the most important is to do something." I was shocked and quite shaken up. How do we

teach our children and how society educates our next generation? If lying is not a problem, it is acceptable for the Chief Executive, the Permanent Secretary, the civil servants, as well as Members to tell lies, the community will become one big "lying community". When can we put the community back to the right track and get it back to be a normal society? How can we in this generation teach the next generation by example through our conduct and work so that they can have the same high quality and lofty virtues as ours?

President, the Chief Executive's integrity issue does not only involve himself but it is a matter that concerns the whole accountability team and the entire government. In his team, there are still others who have similar UBWs in their home and they work in the same disorderly and unsystematic manner. Together this will create a serious problem for the Hong Kong society and the problem does not appear now but in the future. How should we handle it in the future? Therefore, under such circumstances, I do not see how LEUNG Chun-ying can continue to lead the team of civil servants in carrying out his task as the Chief Executive effectively. Hence, I support the motion. Thank you.

**DR FERNANDO CHEUNG** (in Cantonese): President, today's meeting is the first sitting of the Legislative Council in 2013. Our subject of discussion is impeachment against Chief Executive LEUNG Chun-ying. This is not something to take pride in. It is nothing joyful or delightful. I feel unhappy. I simply do not enjoy being one of the Members who jointly initiated the motion to impeach Chief Executive LEUNG Chun-ying. I think we have wasted our precious time to no avail, since there are plenty of pressing issues and important items which this Council needs to address, including legal issues and policy measures.

Outside the Council, a wealth gap prevails. An accident has just taken place in Chevalier Garden. Numerous street sleepers and elderly people are shivering in the street under the cold weather. Many of the disabled and the elderly are living in terrible conditions in residential homes, while new immigrants, single women, ethnic minorities and the grassroots are struggling to live on in "sub-divided flats". Yet this Council is wasting time to discuss whether the Chief Executive should step down.



I do not feel the slightest enjoyment, and I do not wish to continue to do this either. Despite this, I must fulfil my duty because I am a Legislative Council Member and the people's representative. Today we are facing serious dereliction of duty on the part of the Chief Executive, who has lied to the Council, misled the Council and lied before the public, thereby losing his integrity. If the Chief Executive, being the head of the whole Government, has no integrity at all, how should the community move on? Hence, I could not but become one of the Members who have jointly moved the motion today.

As a number of Honourable colleagues (including those in the pro-establishment camp) have said earlier, the crux of this motion is whether the Chief Executive has actually lied. I believe if you ask Hong Kong people this question, more than half of them will opine that he has lied, and the evidence of his lies is indeed quite solid.

In paragraph 46 of the statement issued by the Chief Executive on his Peak property, it was pointed out that in November 2011 — sorry, it should be October — he already found that the so-called "underground closet" in his House 4 was an unauthorized building works (UBWs). In October 2011, he had not yet officially announced that he would run for the post of Chief Executive. What did he do then? As pointed out in his statement, at that time he found that the location of the room did not match with the building plan, and the extension area was about 200 sq ft. It was later sealed off with a brick wall.

As LEUNG Chun-ying is a professional and experienced surveyor, there is no reason why he would not know what is meant by UBWs. Besides, there is no reason why he would not know that he could not build a brick wall on his own to seal off the unauthorized underground closet which he thought at the time was only about 200 sq ft — which later turned out to be some 300 sq ft — and then treat it as though the UBWs did not exist. I believe even primary students would know that he had done something wrong and understand that as the UBWs were structurally present, he could not brick up the closet and then consider that the problem had already been solved and there was no longer any problem. However, the Chief Executive told us blatantly that was exactly what he had done.

His statement has precisely indicated that before he announced running for the election, he already knew that he had a UBWs issue, though he used the word

"extension" instead of "UBWs". The relevant extension part had indeed deviated from the plan. What does that mean? President, could a surveyor not know that the relevant part was UBWs? If he knew about it, when he later ran for the election — as a number of Honourable colleagues have already mentioned that earlier, I am not going to repeat it — "UBWs" and "integrity" was exactly the subject which he used to accuse his rival Henry TANG, alleging that he actually had a UBWs problem but had tried to hide it. He further accused him of confessing reluctantly only after being driven into the corner.

LEUNG Chun-ying was one of the contestants back then. As such, what integrity does he have? He knew very well that having an unauthorized underground closet himself, he was in the same situation as Henry TANG. The only difference might be that the area was smaller. He sealed off the underground closet with a brick wall and treated it as though nothing had happened. Then he accused Henry TANG of having no integrity as he had an unauthorized underground room but refused to admit it.

Let us think about this person's character and personality. Having got the same problem himself, LEUNG Chun-ying made use of such a problem to accuse his rival in front of all the Hong Kong people. His rival handled the whole matter in a very lousy way, demonstrating what is meant by "a lack of commitment" and "a lack of a 'backbone'" with a "reality show", so of course he was ditched by Hong Kong people with contempt. Yet what was unbelievable was that LEUNG Chun-ying, who made such accusations and won the election, was even more unscrupulous than his rival and employed lousier tactics. The Chief Executive with such personality simply lacks the basic morals, let alone integrity. Even though he had the same problem, he could blatantly and shamelessly accuse his rival, leading to his rival's crushing defeat for being bankrupt of integrity, while he himself proudly took office. How was that possible?

Afterwards, we learnt that the Buildings Department (BD) had written to LEUNG Chun-ying four times since June last year, requesting him to explain about his UBWs, but he just ignored it, and he later even told us that he had already acted in an open and transparent manner; he had never rejected the BD's repeated requests for inspecting his residence; he had made immediate response to every problem without delay; and he had fully opened up the relevant location, blah blah blah. However, he never said a single word that he did not reply to the

BD's letters. Although it was subsequently uncovered that he did not reply to the BD's letters, he argued that it was because a lawsuit was going on.

However, at the meeting of the Panel on Development (the Panel), we questioned the Director of Buildings (DB) whether LEUNG Chun-ying had replied that it was not convenient for him to reply because a lawsuit was going on when the four letters were issued to him. Yet the DB dare not say anything. What does that mean? I am not sure. Nevertheless, it is highly likely that LEUNG Chun-ying did not make such a reply.

LEUNG Chun-ying told one lie after another, but every time he would say that he told no lies, and he built a brick wall to deal with his UBWs as though nothing had happened. I questioned the DB at the Panel meeting, suppose a person ..... not "suppose", because this person is right before us. He is the Chief Executive. The Chief Executive had openly stated to the media that the unauthorized underground room — he did not use the word "unauthorized" — he had dealt with the matter by adding a brick wall to the underground room, and in such a way, the UBWs no longer existed. At that time I questioned the DB: was such an act legal? LEUNG Chun-ying added a brick wall on his own to cover up the UBWs as though the UBWs did not exist and the matter had been dealt with. Was such an act legal?

What was the DB's reply? He thought there could be better solutions, but usually they would not accept such an approach. As for whether such an act was legal, he dare not make any conclusion. How does the BD, which is the enforcement department, enforce the law? The Chief Executive has clearly stated to all the Hong Kong people that he has adopted such an approach. Yet even the BD, being the enforcement department, dare not confirm to us whether his approach was legal. If LEUNG Chun-ying continues to act as Chief Executive, he will drag down the whole governing team. Surprisingly, no one has the audacity to conclude whether the Chief Executive has broken the law.

President, how far has Hong Kong degenerated? Do we need to tolerate such an unscrupulous person to continue to hold office as Chief Executive? Right, the Chief Executive has an outstanding capability. I am sure that among the three Chief Executives we have had, he has the highest power of expression, and his "hypocritical rhetoric" has also attained a very high level. He is the Chief Executive who is the most expressive, the most approachable to the masses

and also the most popular to the public. Do we need a Chief Executive who has remarkable political skills but lacks integrity with a despicable personality? Do we wish Hong Kong to become on a par with the Mainland within such a short time, laying conduct aside on a high shelf, and even regarding corruption and decadence as no problem, while what matters most is economic development, as well as availability of "meal tickets" rather than ballots? Is that what we want?

What is the problem with telling lies? Many adults have the experience of falling in love. You may have a partner or spouse. However, if your partner or spouse is unfaithful, how would you feel? Suppose your relatives or friends say to you, "Never mind. He keeps you well fed and well clad and gives you a place to live. Although he cheats on you, he might not be serious. It does not matter." How would you view your partner or spouse? To such an unfaithful partner or spouse, would you merely say, "Never mind. To live a good life, what matters most is getting well fed and well clad. What is more, now that we are married, how can I still talk about ideals? No need to ask for anything else. For the sake of our children, I will just put up with it." Is that the case?

What is worst is that so far he has not even admitted his "unfaithfulness", and we do not know when he will be "unfaithful" again. Neither do we know which words he said are true and which ones are false. Your relatives and friends say to you, "Just put up with it. It does not matter, because in this world, the most important thing is to be pragmatic. As revealed by a survey, the people's utmost concerns are housing, healthcare and education. How will the questions as to whether the Chief Executive has lied and whether he is unfaithful to you matter at all? 'Unfaithfulness' is no problem." Can we work this way? If your partner is unfaithful, how will you view him in the future? How are you going to get on with each other? How will you have the basic respect for him?

Shall we continue to allow the head of the Special Administrative Region Government to tell lies in the Legislative Council freely and mislead the Council? Do we consider that it will do as long as the Chief Executive introduces more old age living allowances, constructs more public housing and hands out more money? Do we wish our society to become like that? Do we wish our children to be like those children on the Mainland, whose aspiration is to become officials after they have grown up because it turns out that officials may take bribes and amass a fortune? Do we wish our children to aspire to be Chief Executive because Chief Executive may tell lies freely and no one can do anything to him?

Do we think that since he holds big power and is protected by the royalist camp, we are supposed to resign ourselves to everything?

Some people opine that whether he had any UBWs is a matter of personal conduct concerning his personal properties. Nevertheless, is that the key issue? President, he does not even have the basic morals and integrity. Could you tell me what to do?

"If the people have no faith in their rulers, there is no standing for the state," said Confucius in *The Analects*. At that time ZI Gong asked Confucius how to exercise proper governance in society. Confucius replied, "The requisites of government are that there be sufficiency of food, sufficiency of military equipment, and the confidence of the people in their ruler." ZI Gong asked, "Which of the three can be foregone first?" "The military equipment," Confucius replied. ZI Gong then asked, "If one of the remaining two must be dispensed with, which of them should be foregone?" Confucius replied, "Part with the food, because from of old, death has been the lot of men; but if the people have no faith in their rulers, there is no standing for the state."<sup>6</sup>

Death has been the lot of men, but do we only live for food and clothes throughout our lives? Do we live for the mere sake of survival like pigs? Has Hong Kong society degenerated to such a state? Can we give up the basic trust and integrity? Without such a core value of integrity, what is left of Hong Kong?

I so submit.

**MR VINCENT FANG** (in Cantonese): President, 27 pro-democratic Members jointly move a motion of impeachment today which charges the Chief Executive, Mr LEUNG Chun-ying, of three misconducts involving serious breach of law and/or dereliction of duty and requests for investigation to be carried out by an independent investigation committee formed by judges. On the face of it, this motion requests for a follow-up investigation on the three charges mentioned above, but in fact it is the third episode of the so-called "toppling LEUNG Chun-ying trilogy" after the no-confidence motion and the motion to request for

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<sup>6</sup> Reference: <<http://ctext.org/analects/yan-yuan/zh?en=on>>

the invocation of the Legislative Council (Powers and Privileges) Ordinance for inquiry; the ultimate aim of which is to ask LEUNG Chun-ying to step down.

Many pro-democratic Members who spoke earlier said that if the loyalist who voted for LEUNG Chun-ying during the Chief Executive Election vote against this motion today, they are making another mistake again. However, everyone knows the voting preference of the Liberal Party in the Chief Executive Election. They understand that the Liberal Party is by no means a loyalist party. Therefore, what I speak today is only about the facts and merits of this issue.

If LEUNG Chun-ying is toppled today, how will the messy aftermath be handled? We think that the operation of the entire government and the development of Hong Kong will be seriously affected. First of all, it will seriously disrupt the administration of the Government which has been stagnant for long and its operation cannot be put back in order in a short time. In the end, the one to pay the prices will be the people of Hong Kong. As a matter of fact, Members have repeatedly pointed out that the development of Hong Kong is already lagging far behind our neighbouring cities, especially Singapore that we always talk about.

In the last two debates, the Liberal Party had made it very clear that there was concrete evidence to support that LEUNG Chun-ying had made mistakes with regard to his unauthorized building works (UBWs) issue and it was evident from his words and deeds during the election that he had a serious integrity problem. Hence, it is just a waste of time to investigate again.

At present, Hong Kong is faced with many serious problems awaiting to be dealt with urgently, such as the problems relating to housing, wealth gap, elderly care and the "doubly non-permanent resident pregnant women and children", which are matters of concern to all colleagues, as well as matters of great concern to the Liberal Party, such as the impetus for sustained economic development, business environment, the opportunities for young people to move upward in society and even environmental protection. If the Government cannot take measures to tackle these problems within a short time, the situation may further aggravate. Hence, the Liberal Party thinks that if LEUNG Chun-ying steps down immediately, Hong Kong may be in chaos and the morale of the enormous civil service team will be further undermined. Therefore, taking into account the

overall situation, we do not support any actions to topple LEUNG Chun-ying, including this motion of impeachment today.

However, does it mean that we will ignore the issue when we do not support the motion of impeachment? The Liberal Party has said before that we would give LEUNG Chun-ying a yellow card as a serious warning in respect of his UBWs problem. Our aim is to give him time and see if he can make amends of his wrongdoings with good works and show us if his service would benefit Hong Kong.

LEUNG Chun-ying will deliver his first Policy Address next week. Although we do not expect him to introduce any stunning measures in half a year's time, the Liberal Party and the public will view it as his first report card.

The Liberal Party will pay special attention to whether he will respond to the public aspirations by solving the housing problem, assisting small and medium enterprises, alleviating poverty and helping the elderly, promoting business, improving the education and handling the problem of "doubly non-permanent resident pregnant women and children" and whether he will introduce effective and feasible measures to tackle the present situation.

All these problems are of great concern to the community. However, because of the piecemeal approaches taken by the Government all along, many of the problems have become harder and harder to solve. For example, the Chief Executive wishes to construct more buildings but has not conducted a proper planning of the manpower supply in the construction industry and now there is an acute shortage of labour, what good remedies has the Chief Executive to tackle this problem? As regards the problem of "doubly non-permanent resident babies", before the problem about the legal details is solved, there is always a time bomb for us. We hope that the Chief Executive will properly solve all these problems and give us a report card of solid results.

Although the Liberal Party suggests giving the chance and time to LEUNG Chun-ying to do his job, if he cannot give us satisfactory results after a certain period of time, by then we and the general public will definitely not let him off the hook. Therefore, the Liberal Party will not support this motion of impeachment today.

President, many pro-democratic colleagues have criticized just now that after LEUNG Chun-ying assumed office, the administration of the Government has not seen any improvements, the property prices continue to rise, the rents of shops remain sky-high and the disparity of wealth has not been narrowed. Frankly speaking, it may take disasters like the outbreak of SARS or onset of a "global financial tsunami" to substantially bring the property prices and rents down. However, I am sure that no one wants to see that happen again. Besides, it is unrealistic to ask a newly elected leader to solve the problems caused by long standing policy blunders in a short time. Nevertheless, we can see the early signs of the effects of the measures taken to curb the "doubly non-permanent resident pregnant women" affecting local pregnant women's access to the medical services in Hong Kong because now we can make reservations for the maternity wards. I am also glad to see that the parents of the first baby born in 2013 are both local residents.

As we needed time to locate the washrooms when we first moved to the new Legislative Council complex and the newly returned colleagues needed time to learn how to use the voting button, the new Chief Executive also needs time to understand the operation of the government framework and time to adjust and integrate with his team. We should not lay all the blame on him for the problems with certain officials. I do hope that we can give LEUNG Chun-ying a little time to do his job.

We have no need to worry as after this trilogy, all the mistakes that Mr LEUNG made during the election have all been recorded in the history of Hong Kong, the data bank of the media and also the records of meetings of the Legislative Council which is an indelible taint for him. Today, many colleagues have quoted classical Chinese literary work. I will hide my weakness as my foundation in the Chinese literature is rather weak but there is a phrase that I always keep in my mind, which is, "it is never too late to mend one's mistakes". I sincerely hope that Mr LEUNG can learn from this lesson as he will attract more attention from now on and the Legislative Council and the public will have higher expectations of him. The Liberal Party will also continue to watch him and demand a better achievement report from him.

I so submit. Thank you, President.



**MS CYD HO** (in Cantonese): President, I have to express my gratitude again to the team of lawyers from the legal profession for drafting on our behalf this detailed and meticulous impeachment motion, in which all the allegations are based on facts and specific information. Much of the information therein has actually been extracted from some of the statements made by the Chief Executive before and after he was elected or from cross-referencing of his own words. This is why some members of the community or supporters of LEUNG Chun-ying dare not say today that the wordings of the allegations made in this motion and the contents of its Schedule are misrepresented in any way. They can at most say that they have a different subjective judgment.

I hope members of the public can read the information carefully. All the evidence adduced in the Schedule are facts cast in iron, including the lies repeatedly told by the Chief Executive under the watchful eyes of the people during the Chief Executive's Question and Answer Session held in the Legislative Council and broadcast by the media, as well as his reluctance to retract one of his remarks when he was requested by a Member to do so. Evidently, his remark demonstrated that he did not make an advertent mistake but he was determined to defend his wrongdoings despite opposition.

As members of the public or colleagues supporting LEUNG Chun-ying can no longer deny the array of facts set out in the Schedule, they have now resorted to politics for the purpose of diverting attention. To achieve this, they allege that the objective of the democratic camp to repeatedly propose impeachment motion, motion of no confidence and even invoke powers under the Legislative Council (Powers and Privileges) Ordinance to conduct inquiries is to stage political struggles and politicize the incident.

However, when did this matter begin to be elevated to the political level, and who was responsible for this? In fact, it was LEUNG Chun-ying who was responsible for elevating it to the political level at the Chief Executive Election forum, when he criticized Henry TANG, telling him and members of the public that the problem was not simply an issue related to unauthorized building works (UBWs), but integrity. This allegation had bought disgrace and ruined the reputation of Henry TANG, and of course, he failed to ascend to the throne of the Chief Executive. The allegations made by LEUNG Chun-ying at that time gained the recognition of members of the public, for everyone agreed that integrity was indeed very important. But surprisingly, in less than a month,

LEUNG Chun-ying was found to have similar problems with UBWs and, more outrageously, he later resorted to telling lies after lies, thus making his integrity even worse.

Some colleagues in this Council have asked these questions: Why not give him more time and let him stay in the post? Why is lying so unacceptable? Of course, the democratic camp very much agrees that integrity should be elevated to such a lofty position. Even LEUNG Chun-ying had, on one occasion, highly publicized the importance of integrity. Hence, I hope that when issues involving integrity, UBWs, and so on, are discussed in Hong Kong, we must never follow the practice of the Mainland to regard anti-graft as a means of combating political opponents. Instead of merely combating the corrupt practices of opponents, we should deal with these issues fairly in an indiscriminate manner. But unfortunately, we can see from the current approach of the Chief Executive and government departments that they might not be able to meet the principle of giving equal treatment to all in a fair manner.

Just now, Dr CHIANG Lai-wan pointed out that the three allegations can actually be summed up to one statement, that is, "the Chief Executive had lied". Certainly, the crux of the issue is that the Chief Executive had lied, but three different scenarios were actually involved. The first allegation concerns Article 64 of the Basic Law which stipulates that "The Government of the Hong Kong Special Administrative Region must abide by the law", and it is followed by a requirement to "answer questions raised by members of the Council". The Hong Kong Special Administrative Region (SAR) Government is headed by the Chief Executive. At the Question and Answer Session held on 10 December, as I repeatedly described just now, the Chief Executive was found lying again under the live broadcast by the media.

The second allegation concerns his lying to members of the public. LEUNG Chun-ying had repeatedly indicated that he had no UBWs and stated that to his memory, he had never said that he did not have any UBWs. He even said that he had taken immediate action and had no idea that there were UBWs at his residence. He had actually been lying to members of the public. His act is actually detrimental to Hong Kong as the efficiency of governance will be slowed down because the public find that every time the Chief Executive has made a statement, he will impose additional conditions afterwards, such that he can go back on his words. Hence, people will regard every measure taken by him in

governance with suspicion and question whether the facts will actually turn out as what he said, as well as whether he will impose any special conditions before he will implement those measures. In that event, the implementation of any policies by the Chief Executive will not go smoothly in the future.

Regarding the third allegation, when the Chief Executive was still the Chief Executive-elect, he pressed, instructed or caused the then Chief Executive-elect's Office (CEEEO) to publish some incomplete, inaccurate and untrue information to the public. The expenditure of the CEEEO was borne by public funds and the electoral office of the "LEUNG camp" had ceased to undertake the relevant work. A Chief Executive-elect had gone so far as to make use of public funds to appoint people who might become civil servants in the future to publish some incomplete and inaccurate information with a view to concealing his breaches of law or regulations. We simply cannot trust such a public officer who, as head of the SAR, has excessive powers and resources. If he could have acted in this manner when he was still the Chief Executive-elect, how could he gain our trust when he is empowered to command the 100 000-strong civil service and exercise control over the annual budget involving more than \$300 billion in public funds?

Integrity is indeed very important. A public officer who keeps telling lies has undermined not only his own integrity but also the rule of law in Hong Kong because, throughout the incident, we have seen the Government's failure to adopt a uniform standard in dealing with different incidents involving UBWs. Let us not talk about the stringent investigation on Henry TANG, even if an ordinary citizen is found to have illegally constructed a planter, the Buildings Department (BD) may issue summons swiftly and take him to court to be fined. However, in this incident involving the Chief Executive and his UBWs, we have still not seen any concrete or substantive follow-up actions taken by the BD except that it merely keeps saying that an inquiry will be conducted. Though four letters had been to the Chief Executive, of which no reply had been made, the BD can still do nothing about the situation.

Hence, the incident has given the public an impression that the rich and powerful can break the law and will not be held liable. Not only are they immune from penalty, inquiries into these people are also disallowed. As such, how would ordinary people be willing to abide by the law? Will those who abide by the law not be regarded as fools? Furthermore, if front-line junior grade civil servants see that the rich and powerful can act willfully, they will

follow suit and abuse their power. Consequently, the damage done to Hong Kong people will be even greater. Hence, such practices of the rich and powerful being immune from penalty have undermined the rule of law in Hong Kong. As a result, it is evident that not everybody is equal before the law. The damage has far-reaching effects.

Another far-reaching impact is that the supposedly neutral Civil Service has been derailed. All staff members of the BD are actually very aggrieved. It does not matter if they are taking the initiative to appease their new boss or they are under invisible pressure, they have indeed been subject to criticism by the public. Why did they not enforce the law strictly? Why did they deploy so many people to investigate on incidents involving UBWs of other people, but when it comes to the UBWs of LEUNG Chun-ying and he did not reply to the letters issued by the BD, how come the BD did not take any follow-up actions?

The morale of the civil service team is closely related to the daily life of the public because we often need to deal with front-line junior grade civil servants. If civil servants cannot get the trust and respect of the public and their morale is low, it will be even more difficult for front-line civil servants to enforce law in many areas. This is one of the most fundamental damages done to Hong Kong as a result of the integrity problems of LEUNG Chun-ying.

Just now, a number of Members said that the offences of LEUNG Chun-ying are not that serious and why should he be impeached? Will they deny that LEUNG's integrity is called into question? I believe they will not. If there is any objection, I hope they can explain it later and tell Hong Kong people boldly that they believe LEUNG Chun-ying has no integrity problems.

Integrity is vital to the head of a government. Just now, Mrs Regina IP mentioned some incidents of impeachment involving a South African country and ROH Moo-hyun, the former South Korean President. I would also like to cite two incidents involving the resignation of two leaders of overseas countries. The first one is the former President of Germany, Christian WULFF, who had merely obtained a loan on highly concessionary terms, which was strictly speaking not a breach of law. After the uncovering of the incident, however, he was susceptible of having a conflict of interest. Certainly, this had something to do with his extremely close dealings with some entrepreneurs in which a great deal of intertwining interests were involved, but he had actually not violated the

law. Nevertheless, when he was questioned repeatedly by members of the public about his integrity, he eventually had to step down. When tendering his resignation, he said that he had no alternative but to resign because without the trust of the people, he could not represent the Government abroad and command public trust in the country, and resignation was the last step he could take in fulfilling his responsibility as the President.

Another person was Pal SCHMITT, the former President of Hungary, who made an even more minor mistake of suspected plagiarism of his doctoral thesis. I believe it is nothing rare for students to be found involved in plagiarism. At the most, they will be stripped of their degrees, right? As the head of state, however, he had to resign after his doctorate thesis was found involving plagiarism. When tendering his resignation, he said he was obligated to step down because his personal problem had split the country and divided the people.

Today, LEUNG Chun-ying's integrity problems are dividing Hong Kong. On 1 January, marches were staged separately by his supporters and opponents urging him to step down. During the marches, people pointed fingers at each other, and this was precisely the division brought about by LEUNG Chun-ying's integrity problems. He should indeed resign and step down if he knows when to advance and retreat, and he should fulfil his last responsibility and regain his last dignity. This is the last thing he can do for Hong Kong at this very moment.

In fact, the law has clearly provided for regulating people in power and safeguarding the right of the public. We must also monitor if people will be abusive in exercising public power for personal gains. Hence, people in power cannot have too much personal privacy. In this connection, I call on LEUNG Chun-ying to give up his personal privacy, so as to allow or even instruct the BD to immediately release information involving his UBWs. Otherwise, his possession of power on the one hand and his concern for his personal privacy on the other will produce the objective effect that the public can hardly monitor if he has abused power for personal gains. He should give up everything, including his power, and step down immediately, as in the case of the resignation of NIXON in the Watergate incident owing to his refusal to hand over the relevant recording tape, so that he could have the privacy protection enjoyed by ordinary citizens. However, so long as LEUNG Chun-ying is still in office and holds enormous power, he must give up the right to safeguard his personal privacy,

instruct the BD to immediately give an account of the entire incident involving his UBWs and make public all the relevant information to Hong Kong people.

President, I support the impeachment motion moved by Mr LEUNG Kwok-hung because it is in public interest to do so. Thank you, President.

**MR NG LEUNG-SING** (in Cantonese): President, this is the third time a motion is moved in this Council on the crisis of unauthorized building works (UBWs) of Mr LEUNG Chun-ying. The repeated discussion of the same incident and the continuous depletion of the time of this Council as well as taxpayer resources can be said to be a major feature of the current-term Legislative Council.

Is the issue of UBWs so important to be the prime concern that should be given priority over economic and livelihood issues to be discussed in this Council time and again? How important is this issue in the eyes of the general public? We may have a look at the other side of the picture through a recent event. On 16 December last year, Chief Executive LEUNG Chun-ying attended a show "眾言堂" (a forum of all voices) of Radio Television Hong Kong to have a dialogue with almost 100 members of the public, listening to their views on the coming policy address and making feedback right away. Members of the audience were selected by the Public Opinion Programme of the University of Hong Kong (HKU) through random telephone sampling. The target samples were taken in proximity to the distribution profile of the overall Hong Kong population. The programme comprised separate discussion on three main scopes, namely economy, livelihood and politics. Each member of the audience could submit one question under each of the scopes in advance, and the host would then draw a question in the relevant discussion session for the participant concerned to raise it in person. It turned out that over the course of the whole programme, no one put to him any question concerning UBWs.

What are the important issues in the mind of members of the public, as reflected from the above forum? UBWs is certainly not one of the main concerns. According to a telephone survey conducted by the Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong (CUHK) in December last year concerning the policy address to be released in mid-January this year, the most pressing policy areas or issues that the public would expect the Government to tackle were housing and planning (26.8%) as

well as livelihood and welfare (20.8%), followed by economic development (13.2%), medical and health services (10.8%) as well as constitutional affairs and governance (10.7%) and education (9.5%). As reflected from these statistics, issues related to livelihood and the economy are regarded by members of the public as the most pressing ones to be tackled. However, amid the current political ecology where politicization prevails, giving rise to incessant disputes, the Government can hardly concentrate its efforts on addressing livelihood and economic issues. Is it what members of the public desire, and is this conducive to the well-being of Hong Kong people?

The UBWs issue has been fermented for a long time, involving various districts, periods and levels, and has been put on the agenda of this Council several times for some detailed discussion. As for Mr LEUNG's UBWs problem and his handling of the issue, he had admitted that his approach was inappropriate and inadequate. He also had issued a written explanation, and had come to this Council to give an account of the issue and apologize. Judging from the various sources of information, I, as well as those who are rational and have the overall interests of Hong Kong in mind, are of the view that his faults are basically due to negligence, and we do have much reservation as to whether such faults are serious breaches of law and dereliction of duty. I recall a comment made by a Member from the legal profession at an earlier time, that is, in early December last year when the motion of impeachment was yet to be moved. The colleague said that the Basic Law provided that the impeachment procedures could be initiated only when the Chief Executive was charged with serious breach of law or dereliction of duty. However, having UBWs is not a serious breach of law, and the incident did not take place during his tenure as Chief Executive, so initiating the impeachment procedures has no legal justification. This is the point raised by that Honourable colleague. Hence, this Council should neither be reckless nor imprudent in invoking the law, not to mention that there are no legal justifications.

According to the surveys conducted by the HKU and CUHK in December last year, the support ratings for Chief Executive LEUNG Chun-ying stood at 49.1 and 48.9 respectively, which were of course not ideal in any way. However, compared with the ratings of leaders in other areas, who are returned by the so-called universal suffrage, it still seems to be acceptable. If these leaders even do not need to step down, are we going to ask LEUNG Chun-ying to step down just because of this? As the saying goes, every family has a sad tale

to tell, and every village has its own rule. Hong Kong is now in the midst of global economic and financial turmoils; it is at the juncture of a crossroad. What members of the public expects is that Chief Executive LEUNG Chun-ying would, in his policy address to be released, continue to react to public sentiments and strive for every means and time to take pragmatic actions for the well-being of the public. They also expect the Chief Executive to lead his government team to work hard to foster economic development and improve people's livelihood.

President, I so submit.

**MR ALAN LEONG** (in Cantonese): President, from the number of people of the two opposing camps who took part in the march on New Year's Day or the Members who have spoken in this Council, it can be proved that although almost all the people of Hong Kong think that LEUNG Chun-ying is a big liar, there are still one half of the people who think that he should be given a chance to right his wrongs. Actually, this is the meaning of the third point raised by the Chief Secretary for Administration in her earlier speech. And many Members have echoed this view. However, another one half of the people say that they do not want a liar and that they cannot accept a culture or a value that only aims at achieving the end regardless of the means. Just now, the President has heard Members citing examples of how foreign leaders, elected by the people, are committed to work for his place and people. At this time when society is deeply divided, it takes courage for a person to step down and gives Hong Kong a chance to avoid being divided and confronted.

President, can we say that we cannot do without him? In 2005 a similar situation also happened. At that time Chief Executive TUNG Chee-hwa left with a complaint about a pain in his legs. Did the situation turn chaotic? Now we have Chief Secretary Carrie LAM in attendance. She has been sitting here for so many hours. At that time we had Donald TSANG and now we have Carrie LAM. Why did we believe that nothing would go wrong back then — not believe, we just did not see the problems at that time — but now we think that there are problems? I really do not understand.

President, I want to ask our Honourable colleagues, can we directly tell the people who are watching the television broadcasting, "It is really our honour to have LEUNG Chun-ying as the Chief Executive and we are proud of him. He is



well qualified to be in this post." Do we dare to say those words? I do not think so. Then why should we feel so aggrieved? I just fail to see why.

President, as a matter of fact, we have given LEUNG Chun-ying many opportunities before today, only that he had not seized these opportunities and be open and transparent. He had not admitted that he had really covered up some of the truth. Perhaps, the situation at that time was chaotic, and perhaps he had not considered carefully. If he had really admitted his mistakes and asked the people of Hong Kong for forgiveness and understanding, he could make it. Just take a look, at present, half of the population in Hong Kong, though they are convinced without a doubt that he is a lair, are still willing to give him a chance. It is a pity that he had not made well use of the chance this Council had given him.

What can we see instead? He said at a luncheon meeting with the business sector that many people were impeding the progress of Hong Kong. He has not thought of his own problems, instead he puts the blame on others and he has never reflected on his own deeds. He asked people to look out for those who have impeded the progress of Hong Kong, that is, hindering his governance, and, in his words, "Shout at them." What kind of a man is he! President, he is one who hardly knows how to repent. He gives people the impression that he does not care what others think of him. Why is it that we cannot be proud of him, but instead, we look depressed whenever his name is mentioned? Why should we still have to put up with him?

President, the Civic Party knows very well that impeaching the Chief Executive is a grave matter and it has great constitutional significance. LEUNG Chun-ying is lucky enough to be the first leader in Hong Kong since the inception of Hong Kong to be impeached; and 27 Members from the pan-democratic camp have finally found a cause for common action. What does this mean? President, it means that we, as representatives of 56% of the voters in an election, want to impeach the Chief Executive to show our distrust. We do not want him to stay in power and govern Hong Kong. This is a historic step. President, there is one more thing. Although I believe that only the 27 of us will speak today and very few Members from the pro-establishment camp will speak, the speech made by each Member will be recorded in history. President, that is highly significant.

Earlier, the Chief Secretary for Administration said in her opening speech that the Chief Executive was bound. Actually, he wanted to make an explanation earlier if not due to the commencement of the legal proceedings. I have heard of such explanation time and again, but after thinking it over, I fail to understand the logic behind. The purpose of court proceedings is to find out the truth. I do not know who had advised LEUNG Chun-ying, such that he refused to tell the truth on the pretext that the legal proceedings have started. Does he think that the Court allows him to make false statements and tell lies? What kind of logic is that? I am simply baffled. Therefore, when we hear the words of other people, in particular of LEUNG Chun-ying, we have to be very careful. What if the legal proceedings have already started? The Court is actually a place where people are required to speak the truth. Does he intend to make false statement in the Court? There was once a court case in which he was scolded by the Judge for not telling the truth and the Judge even said that he was not to be trusted. I think Mr Albert HO had mentioned this incident during the election campaign for the Chief Executive.

The Chief Secretary for Administration then said that the Chief Executive has offered his sincere apologies. President, what kind of apology has he made? Have you ever heard him apologize? He only apologized for his negligence. He did not apologize for making false statements and hence ask Hong Kong people for forgiveness. He has never done so. What we have heard are remarks such as "shout at them", which reflected his arrogance because of the power he has. And what else?

President, of course we are not simply talking about unauthorized building works (UBWs) today. As LEUNG Chun-ying said to Henry TANG on 16 March, "What we are talking about is a question of integrity." Do not treat this matter as a UBWs issue when you are the person in question, but an issue of integrity when other people are involved. President, we are not talking about serious breaches of law today either. As you can see from the impeachment motion signed jointly by the 27 Members, our focus is on dereliction of duty. I hope Honourable colleagues will not deliberately misinterpret the motion, the main focus of which is not that having UBWs is a serious breach of law. It is not the case. President, the main focus is his dereliction of duty and his lying to this Council. According to the Basic Law, this Council is to monitor the operation of the executive authorities. If he comes to this Council and lies to us, all other people will follow suit, all Secretaries of Departments, all Directors of

Bureaux as well as all heads of department will tell lies. How then can we monitor the Government? This is really the crux of the problem.

President, Mr TAM Yiu-chung even says that he fails to see any procedural justice and there is still no consensus on how Article 73(9) of the Basic Law should operate. If a consensus can never be reached between this Council and the Chief Executive on how Article 73(9) of the Basic Law should operate, does that mean no impeachment will be initiated, no matter how he has acted immorally, seriously breached the law and acted in dereliction of his duty? Of course not. The answer is obvious even before I finish asking the question. Now we have the opportunity to rationalize the arrangement. If we pass this motion, Chief Justice Geoffrey MA will have to take action. Of course, he will discuss with us how to proceed, but this is not a problem.

Oddly, Dr CHIANG Lai-wan has special emotional attachment to the Chief Executive. Her remarks give me an impression that she has great trust in him and his words are nothing but the truth. I wonder why she trusts him so much. Come to think about it, when he knew that he had to attend the election forum of the Chief Executive, he sealed the hole in his mansion with a wall. This clearly illustrates that he knew that the hole was a UBWs, otherwise why did he brick up the hole after he has lived there for nearly 20 years? His act is most unethical. He first pretended that he did not have UBWs; then he attacked Henry TANG by saying that concealing the UBWs is a problem of integrity. This act is most despicable. This is not just a question of telling lies but it is really not ethical.

The argument about making amends for his faults is most odd. President, if we argue in court that the defendant should be allowed to make amends, we are actually pleading for mercy. Now that he does not even admit that he is wrong, why then should we hastily say that his plead for mercy should be granted. How can this be? I just fail to understand.

President, if today we vote down this motion to ask Chief Justice Geoffrey MA to head a commission of inquiry and commence the impeachment proceedings, what in fact are we doing? We are in effect admitting that we can get things done by hook or by crook, and any practice is acceptable. As quoted by some other Members (actually I have watched footage of that television news), a six-year-old girl said that so long as her family could be allocated a public rental housing flat, everything was acceptable. It is acceptable even if the

person who allocates a flat to her is a liar. I really want to ask the parents of this little girl whether they would be worried upon hearing this. If we vote down this motion, it is like setting the bottom line of our moral standard to a lower level and we actually accept this kind of distorting right and wrong.

President, recently there has been heated controversy concerning the Mainland newspaper *The Southern Weekly*. In the editorial "Chinese Dream, Constitutional Dream", there is the following passage: "Once, people took wrong as right, talking black into white ..... but now ..... we cannot just dream that our country can be strong, we further hope that our people can have self-esteem." President, when people on the Mainland have this constitutional dream, what about us? In Hong Kong, I think people do not just dream for a prosperous economy, they will also hope that everyone, from the Chief Executive at the top to all other people, will have self-esteem and a noble character. They will never expect that the Chief Executive is leading us the way backwards, deliberately misrepresenting something, talking black into white and passing wrong as right, and saying that all these practices are acceptable. I think we have to be honest. If we vote down this motion, this means that we will affirm this value. This is not what I want. I do not know if this is what the President wants. But this is really something I do not want.

People say that leaders should have both capability and virtue. That is right. But for me, I think virtue is more important. If someone has capability but not virtue, he is well capable of doing a lot of evil things. He may even lead Hong Kong into disaster. And this is exactly what LEUNG Chun-ying is doing. Now we do not trust him, we do not believe in him when he lies to us that he does not have any UBWs, we also do not believe in him when he says he has no political mission. We can see that he is a person who challenges our values, our system, as well as the freedom, human rights and rule of law promised to us under the Basic Law.

If the first step in the impeachment procedure is voted down today, it does not matter. I must say to people watching the television broadcast: it is the people of Hong Kong who can really impeach this "liar Chief Executive" or "Cheating Executive". We can still express through various other channels that we do not want this "liar Chief Executive" or "Cheating Executive". We want to see self-esteem and a noble character in every Hong Kong people, and that we

can be lift our head up whenever we talk about our Chief Executive. This is something we all deserve.

Furthermore, speaking of capability, what kind of capability does the Chief Executive show during the past six months? All we can see is favouritism as the persons he appointed are either leftists or communists, such as MAK Chai-kwong, Paul CHAN, Eddie NG, SHIU Sin-por, LAU Kong-wah, and so on. We have given him enough chances.

President, the Civic Party supports this motion.

**MR ALBERT CHAN** (in Cantonese): President, Mr Alan LEONG just talked about his hope for Hong Kong people to possess a noble character, but it is in fact a wishful thinking. It has been 15 years after Hong Kong's reunification. Whenever we look at the face of these political figures or our governing team, particularly the so-called "pro-establishment camp", we have this increasing feeling of "a pack of scoundrels and lackeys ruling Hong Kong". As we see, our governing team is extremely terrible, with an Executive Council Member being well-known for his "property speculation", that is, he is a "speculator". A "speculator" can become a Member of the Executive Council. CHEUNG Chi-kong, known for pugnacity and belligerent style, is also a Member of the Executive Council, whereas Franklin LAM, whom I have just mentioned, is nothing but a flatterer.

One Director of Bureau had allegedly been involved in drink-driving once he assumed office, to be followed by tax evasion of profits gained through "property speculation" and the operation of "sub-divided units". The feats of this "Secretary of Sub-divided Units" are not only amazing, but also affect the Government's policy as well. Before his "sub-divided units" were revealed, the Government's policy has clearly provided that "sub-divided units" are against the law and regulations, and must be eradicated without mercy. Despite the sleep-in protest we staged with a group of residents living in "sub-divided units" in industrial buildings in Sham Shui Po outside the Buildings Department for over a month, they were still evicted in the end. But somebody now dares say that "sub-divided units" are very presentable. Won't you say that these are some rule-by-man policies of the Government?

Before the "sub-divided units" of this Secretary were revealed, the Government has been practising strong governance with the stance that "sub-divided units" are illegal and hazardous to public safety, as residents can hardly escape in case of fire. Hence, "sub-divided units" must be prohibited and the residents evicted. But recently, the Government's stance has changed diametrically, which is really eye-opening. I hope the Secretary can clarify later whether the Government has changed its attitude of welcoming the construction of "sub-divided units"? Are "sub-divided units" now officially legal and permissible? The existence of "sub-divided units" is now permitted under the Government's policy because there is a "Secretary of Sub-divided Units".

Due to speculation activities, the rent of "sub-divided units" is now about \$40 per sq ft on average. President, in a recent case, a resident who rents a "sub-divided unit" of 120 sq ft for \$3,500 must still face eviction because the new owner considers the current area of "sub-divided unit", ranging from 120 sq ft to 150 sq ft, still too big, and wants to shrink them further by erecting new partitions for even smaller units so that he can make even more money. Isn't it ridiculous that the rent of "sub-divided units" in Tsuen Wan is now as high as some \$40 per sq ft?

President, today, 27 Members of the pro-democracy camp have jointly signed this motion to charge LEUNG Chun-ying with dereliction of duty for the purpose of activating the impeachment mechanism. Many Members, especially Members of the pro-democracy camp in the legal profession, have already elaborated their views in great detail. In particular, Mr Dennis KWOK has presented a very concise and professional explanation on the three charges of serious breaches of law of "Mr 689", so I will not repeat them here. I totally and wholeheartedly support Mr Dennis KWOK's arguments. We have also set out the rationale and evidence in this regard clearly in our newspaper advertisements.

I want to go back to the importance of passing this motion, in particular, the importance of such to the 160 000 civil servants. If the Chief Executive makes any mistakes, there is no mechanism for investigation or disciplinary proceedings, and impeachment is the only mechanism available. This is the only mechanism to investigate whether the Chief Executive has a dereliction of duty or any breach of the law or regulations. If this motion is passed by the Legislative Council, a committee will be formed to firstly conduct investigation and then report its findings, and finally for this Council to take a vote on whether

to proceed with actual impeachment. Moreover, the relevant motion of impeachment must be reported to the Central People's Government.

Nonetheless, for the 160 000 civil servants, if they have made similar mistakes or even if they have made less serious mistakes than those of "Mr 689", the 160 000 civil servants — including those civil servants who had been fired in the past — must undergo disciplinary proceedings that are extremely stringent, comprehensive and thorough, and particularly so for the disciplinary forces. Let me cite a simple example. Just now, a certain Member, that is, the Member who looks like "YUEN Qiu" opined that negligence was no big deal; yet if anyone of the 160 000 civil servants is negligent, he is liable for dismissal. I have cited many examples in this Council before. In one case, a staff member of the Leisure and Cultural Services Department was dismissed for failing to declare that he had borrowed \$500 from a tennis coach.

For the disciplinary forces, I am now helping tens or even hundreds of officers dismissed or ordered to take early retirement by the Police Force for mistakes much less serious than those of "Mr 689". In some cases, the officers concerned had purchased a property around the financial turmoil in 1997, and they had some minor omissions — just omissions rather than negligence or deceit — when making the declaration of bank loans they obtained. Yet, they were regarded as having serious debts. Given their income, they could absolutely repay the loans; yet they were eventually ordered to take early retirement on account of their disciplinary problems, as well as the concern over their financial difficulties.

There is another example which also involves a police officer. Having worked as an undercover agent previously, the police officer concerned got acquainted with some gangsters. After completion of the undercover assignment, he resumed other police duties. One day, he ran into a gangster when walking in the street in plain clothes. That gangster, unaware of his identity as a police officer, invited him to have a cup of coffee. The police officer reckoned that there was no reason to turn down the invitation as it was just a casual encounter. So they went to a café for old time's sake. But the police officer concerned did not report this incident to his supervisor, he was ratted on and eventually dismissed. These are the suffering and pressures faced by the 160 000 civil servants. Some civil servants serving for 20 or 30 years were dismissed for these reasons.

Our "Yuen Qiu" Member said that it was a minor issue. Is that the stance of the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB)? Have you helped to reinstate those civil servants who have been dismissed? Have you done justice to those civil servants? You are defending "Mr 689" because he is in a high and powerful position, because he can give you benefits, because he can appoint a defeated Member of the DAB to be Under Secretary for Constitutional and Mainland Affairs who can then transfer benefits to you, in exchange for your support for this "Mr 689". What about the 160 000 civil servants? What about those civil servants who have been dismissed? When can justice be done for them? In dealing with the Chief Executive who occupies a high and powerful position, and appointed by the Hong Kong Communist, they can cover up and protect him unconditionally. In dealing with an ordinary member of the public, a junior civil servant, they consider it justified to dismiss him for his mistakes, even though he has been serving the Government for two or three decades, without duly consider the enormous impact on his livelihood in later years. If the person in question is just a nobody, many Members have handled many similar cases, he will be prosecuted for omission of information in applying for public rental housing, or for omission of information in applying for Comprehensive Social Security Assistance (CSSA).

Recently, I assisted an old folk. Being a resident in Tin Shui Wai, he goes to the Mainland to buy foodstuffs, and one day, he was caught and prosecuted by the Customs for bringing pork from the Mainland to Hong Kong. The old folk felt aggrieved because he was only buying some foodstuffs. Does that make him a criminal? How does he suppose to know that he cannot bring in pork because he has been doing so frequently for many years? But he was still prosecuted. This old folk is 70 years of age and lives on CSSA. For the sake of saving a little money, he would buy foodstuffs in Lo Wu. On that day, he bought some pork and put it in his rucksack or bag without wrapping it properly. When he crossed the border, the Customs found the pork and prosecuted him. That epitomizes the Legislative Council now. When it comes to the rich and the powerful, or senior officials hand-picked by the Hong Kong Communist, they would flatter, toady up and shield them unconditionally; when it comes to the suffering of the general public or the harsh treatment encountered by the 160 000 civil servants, they just turn a blind eye. That is what the Legislative Council of Hong Kong is about; that is the shortcoming of the Legislative Council under the manipulation of the functional constituencies.



President, soon after this "Mr 689" was elected, amazingly, he was featured on the cover of the *Time Magazine* with the caption: "Can Hong Kong trust this man?", and it became international news. Even foreigners find this man untrustworthy, yet most Hong Kong people are still blind; not most, but some people are blind, and the public opinion held by most people that he should step down has been distorted. When this cover came out, his UBWs issue and a series of lies had yet to be revealed, but outsiders already considered him untrustworthy. Subsequently, he made several appointments, that is, those persons whom I have just mentioned: Franklin LAM, Paul CHAN, CHEUNG Chi-kong, LAU Kong-wah who was appointed after his defeat in the election, and the worst of all, SHIU Sin-por. SHIU, the "extreme leftist", is obviously tasked to implement a full set of Hong Kong Communist policies, and for this purpose, he has recruited some persons who are pugnacious, provocative, belligerent, "cheap", despicable and shameless. It is somewhat similar to the era of JIANG Qing's "Gang of Four" during the Cultural Revolution when China was completely overwhelmed by the leftist line and the whole country was in "red". Under such a regime and such an atmosphere, today's motion signed jointly by 27 Members will definitely be vetoed.

Going back to LEUNG Chun-ying himself. He has been plagued by controversies since his election to date. On 24 March last year, a protest march was organized by the Hong Kong Federation of Students; on 25 March, thousands of people took to the streets, and they were eventually dispelled by pepper spray; on 27 March, another student procession took place; on 1 April, more than 10 000 persons from several organizations rushed to the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region (LOCPG) to protest against Hong Kong Communist ruling Hong Kong, and they were also dispelled by pepper spray; on 1 July, a total of 400 000 people took to the streets, and again, some 10 000 to 20 000 persons rushed to the LOCPG; on 7 September, 120 000 people besieged the Central Government Offices and demanded the withdrawal of the National Education subject; on 9 December, many organizations demanded that "CY STEP DOWN!!", and a new organization had been formed for the purpose; on 1 January this year, more than 100 000 people took to the streets. It has only been a few months, yet there is no end to the troubles. Nonetheless, all these cannot and would absolutely not change the voting result in this Council today.

Therefore, to truly overthrow and topple the Hong Kong Communist regime, as well as topple "Mr 689" LEUNG Chun-ying, we must rely on the people, as in the case of the 500 000 people who took to the streets in 2003. However, our fight today is not only about taking to the streets; instead, we must actually initiate a non-co-operation movement in order to create set-backs for the Government. As a result, the credibility as well as efficacy of the Government's governance will be gravely undermined. The non-co-operation movement had been successfully launched by GANDHI in the 1920s, and another example is also found in South Africa. In the United States, Martin Luther KING likewise countered the numerous discriminatory government policies at that time with the non-co-operation movement. Hence, Hong Kong people must be awakened. Taking to the streets is the first step in our fight. Then, we must initiate the non-co-operation movement through all sorts of means; for example, some organizations have suggested that members of the public should pay \$10 less in tax, which can be a direction. Thereafter, we must, as the Chinese saying goes, "let a hundred flowers bloom". Citizens from all classes, all districts and all professional bodies who are dissatisfied with the *status quo* of Hong Kong Communist ruling Hong Kong, particularly the 160 000 civil servants, so long as you have been treated unfairly, you and your family members must join in the non-co-operation movement in order to say "NO" to this regime with no credibility, which is biased towards the rich and powerful, and will only transfer benefits thereto. Show it your power. It is only through the use of your power that this ridiculous and absurd regime, as well as the serial liar "Mr 689" can be countered. In this connection, I urge all friends, all citizens, and particularly our civil servants, to join in the non-co-operation movement and join in our fight.

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

**MR WONG YUK-MAN** (in Cantonese): President, impeachment is only a means and the goal is to formulate people's constitution. Today, in the Legislative Council, this motion to launch an impeachment proceeding against the Chief Executive is proposed by Mr LEUNG Kwok-hung under Article 73(9) of the Basic Law, and is co-signed by 26 Members. The public opinion represented by these 27 Members should not be ignored even though Mrs Carrie LAM has made a casual remark that "the impeachment motion is unnecessary". The public opinion represented by these 27 Members is strong enough to make

"689" step down in shame. If the leader of a democratic and civilized society refuses to step down when he has been cast aside by his people, what else can he do? Although I never have confidence in the Basic Law, the principles of "one country, two systems" and "Hong Kong people ruling Hong Kong", knowing that the undertakings made by the Communist Party, which practises one-party dictatorship, to Hong Kong should not be trusted, this is the first time in Hong Kong an impeachment proceeding is launched against the Chief Executive returned by a small-circle election. It therefore has an important political significance and I definitely support it.

Human rights debates broke out between the United States and the Chinese Communist Party in the early 1990s, during which the latter put forward a unique concept that "human right is the right to be fed and the right to survive". Some 20 years have passed, the Communist Party's "determination to shut the door to the West's separation of powers" has left public authority unchecked, and resulted in the forcible demolition of people's homes; forceful enforcement by the City Urban Administrative and Law Enforcement Bureau (commonly known as Chengguan) as well as the unlawful acts of government officials. As the community is plagued by public nuisances, rights defending movements became popular and mass movements have also become the norm of the day. Nowadays, the aspirations of the Mainland petitioners are still the "right to be fed" and the "right to survive". How saddening this is!

The recent struggle of the *Southern Weekly* was triggered by its New Year greeting, which stressed the implementation of "Chinese Dream, Constitutional Dream", hoping that the Chinese Communist Party would be self-disciplined and strictly uphold the Constitution of the People's Republic of China (PRC). However, the Director of Guangdong Provincial Party Committee Propaganda Department, TUO Zhen, had made deletions and amendments through administrative means. Staff of the *Southern Weekly* was furious and thus revealed his acts on the Internet. The masses subsequently gathered at the headquarters of the Southern Newspaper Group on their own initiative to show their support. The incident has caused a furore in the Guangdong Province.

I certainly despise the fallacy of "human rights are tantamount to the right to be fed and the right to survive" and the Constitution of the PRC, but this does not mean that I do not support Mainland people's rights defending movements and struggles. Likewise, I think the Basic Law is a crap, but I will not oppose

the impeachment motion proposed in this Chamber because of this. I will still vote for it.

At the National Political and Legal Work Conference held on 7 January, MENG Jianzhu, Secretary for the Political and Judiciary Committee cum Minister of Public Security, announced that the Chinese Communist Party would abolish re-education through labour this year. While this can be regarded as a preliminary victory of the rights defending movement, it is definitely not the ultimate goal. The day of final victory for people defending rights and pursuing democracy will only come either when the Chinese Communist Party gives up autocracy on its own initiative, launches a comprehensive reform of the political system and return authority to the people, or when people struggle by taking to the streets and successfully force the Chinese Communist Party to surrender its power to the people.

By the same token, this impeachment motion is not purely an example of impeachment pinpointing the heads of state of democratic countries, but also the fundamental political system behind "Mr 689".

The sins of "689" and his allies are too numerous to list out. The Central Policy Unit led by SHIU Sin-por has even suggested the Government to fight the media war. As we can see, some "pro-LEUNG" groups have become more high profile lately. They have organized counter-protests and paid those disadvantaged youngsters to take part in them. A leader of these youngsters even appeared in a television programme produced by the RTHK. Such tactic of stirring up masses to struggle against masses, coupled with SHIU Sin-por's militant attitude, does have a distinctive feature of the Cultural Revolution which "takes class struggle as the framework". We may have to bear the consequences.

On New Year's Day, "689" wrote the New Year wishes on his blog, saying that "I hope Hong Kong people will stand united in supporting and accommodating our policies". He has not forgotten to unify thinking and play down divergent views even when making New Year wishes, which has revealed his autocratic essence. If the "689 syndicate" cannot be removed as early as possible, Hong Kong will be at stake.

As I have pointed out in the previous debate on the motion of no confidence in "Mr 689", I supported the no-confidence motion not only because I have no trust in "689", but I also have no trust in the policy implemented by the Chinese Communist Party towards Hong Kong over the past two decades. In today's speech, I must further state that the impeachment against "689" is just the beginning. Our goal is to formulate a constitution with a view to formulating a new social contract. After listening to the speeches of so many Members, I notice that they merely played the same old tune and there was nothing new. The points were all related to the unauthorized building works (UBWs) incident, which have been raised in the debates on the no-confidence motion and the motion concerning the Legislative Council (Powers and Privileges) Ordinance. I am tired of listening to all these. My speeches have never touched on the incident. As I have clearly pointed out in the last Question and Answer Session, he is so ignoble in character and thus is not qualified to lead 160 000 civil servants to govern Hong Kong. His ignoble character can be evident from his words and deeds over the past period of time, which is obvious to all.

Today, I talk about social contract because People Power proposes to formulate a constitution by the people. President, with regard to the social contract under discussion today, many people may cite HOBBS' *Leviathan*, LOCKE's *Two Treatises of Government* and ROUSSEAU's *The Social Contract*. According to HOBBS, under the "state of nature" of the prehistoric era, every man lived on different necessities in order to survive. But given the limited supply of these necessities, people had to compete for the resources. It was thus "a time of war, where every man is enemy to every man". In order to struggle and preserve powers, conspiracy or even cheating was common. As a result, everyone should enter into a social contract and hand over their inherent rights of self-defense to the almighty Leviathan, counting on it to maintain social harmony in the community and defend against foreign enemies.

I believe this is the cup of tea for many conservatives. Back then, Hong Kong people did not have a part to play in the drafting of the Sino-British Joint Declaration, and those who participated in the formulation of the Basic Law did not represent public views. However, instead of making strong protests, Hong Kong people had swallowed the hard terms, hoping that the Chinese Communist Party would guarantee to leave Hong Kong people's living unchanged and all affairs (except national defense and external affairs) would be governed by Hong

Kong people. This resembles the formation of a social contract proposed by HOBBS.

Although the day-to-day living of the general public has not experienced great changes after 1997, the pan-democratic camp still has fantasies about the empty promise of the implementation of universal suffrage for the Chief Executive and Legislative Council elections in 2007 and 2008. And yet, the interpretation made on 6 April 2004 against the implementation of dual universal suffrage in 2007 and 2008 had failed to meet the reasonable expectations of most supporters of the democratic movement. This violated the so-called social contracts which were entered back then, including the Sino-British Joint Declaration and Annexes I and II to the Basic Law. Many Members mentioned the Basic Law today, but it was the Chinese Communist Party that has taken the lead to violate the Basic Law, which is indeed a form of social contract. Apart from the interpretation made on 6 April 2004, Members should also be aware that the Standing Committee of the National People's Congress had made a decision in 2007.

Today, the Chinese Communist regime has been distorted into a "corrupt Leviathan" which is destined to prey on the people rather than reasonably protecting people's basic rights. If Hong Kong continues to head towards mainlandization, we will follow Mainland's footsteps sooner or later. Even if we apply the most conservative standard of social contract, neither the Chinese Communist nor Hong Kong Communist regime can be regarded as a legal authority.

In the previous debate on the no-confidence motion, I have stated clearly that the entire SAR Government should resign whereas the Legislative Council should be disbanded and replaced with a conference to amend Hong Kong's constitution, thereby amending the Basic Law. Upon completion of the amendment of the constitution, dual universal suffrage will be implemented. Perhaps some people may think that I am unrealistic. For example, when a relevant motion debate was held in this Chamber around the time of the "five geographical constituencies referendum", I said that all great historic events were utopia at the outset, but they turned into reality in the end, including the revolution of the Chinese Communist Party. Likewise, the proposal of the "five geographical constituencies referendum" was also considered to be unrealistic in the first place, but it turned out to be a success in the end.

Our present proposal is revolutionary and radical, and I believe no one from the democratic camp will be bold enough to support our proposal. And yet, this does not mean that we will abandon our vision. The initiation of the impeachment mechanism today is just the beginning and the motion is expected to be voted down under the prevailing structure of the Council. Nonetheless, the end of this motion debate actually marks the beginning of the "Down with LEUNG movement". Hong Kong people have no choice but to save ourselves by toppling the Hong Kong-Communist regime.

I reiterate my demand for the formulation of a constitution with the people, which is different from the social contract suggested by HOBBS in *Leviathan* but resembles more to LOCKE's *Two Treatises of Government* and ROUSSEAU's *The Social Contract* (to manifest democracy direct by voting the new constitution under universal suffrage). As we have pointed out around the time of the "five geographical constituencies referendum", even though resistance movements are too high-minded to be popular, people participating in it should be romantic in a sense that they should have ideals. As we can see, Hong Kong is now at stake. In a narrow sense, this SAR Government is unpopular and has lost its governance credibility. How can it continue to maintain the stability of Hong Kong?

This impeachment motion is destined to be voted down. The wars for the "Down with LEUNG movement" and the fight for democracy will mainly be fought in the streets. As we count on our people, we will continue to organize street protests and "non-co-operation movement" to gather people's strength until it reaches a critical point at which the Chinese Communist regime will have to face the reality: So long as Hong Kong people fail to resume autonomy, no effective governance can be exercised. We will fight towards this end.

President, I so submit.

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

**MR PAUL TSE** (in Cantonese): President, I find it hard to speak after Mr WONG Yuk-man as he has brought Members to the sky. I hope that Members will now come back to earth.

Let me make it clear at the outset that if the motion under discussion today is still the no-confidence motion, I will still render my support. As I have said in my previous speeches, it is no longer an issue of unauthorized building works (UBWs), but has been escalated to a problem beyond credibility or telling lies, or may even be likened to a conspiracy to usurp someone's place.

Today, we must look seriously at one point. This is an impeachment motion. Earlier, Mr TAM Yiu-chung and Mrs Regina IP have made some excellent points and geared us to an appropriate level of perspective. Simply looking at Article 73(9) of the Basic Law — I am not going to repeat as Members have mentioned it time and again — I believe Members would not agree that the Chief Executive has committed serious breaches of law, therefore as Mr Alan LEONG has said, our focus should be the dereliction of duty.

"Dereliction of duty", as it implies, is concerned with a person's "duty". In this connection, President, allow me to consolidate the blind spots in public views and some Members' speeches. First, it is a mismatch of time and space. With regard to the time, we should be able to distinguish the periods which Mr LEUNG Chun-ying had yet to run for the election, taking part in it and officially taking up the post after he was elected the Chief Executive. This differentiation is very significant. For space, it can be interpreted as background, perspectives, venues, occasions, and so on. Without having a clear idea of the time and space, if we abstractly conclude that telling lies is a dereliction of duty, we actually fail to meet our current yardstick, that is, to examine the case from an accurate perspective, because we are no longer debating on the no-confidence motion.

Moral judgment can be made solely on the basis of one's feelings, subjective instincts and a wide spectrum of factors simply because it is not a formal impeachment mechanism, but only a general moral judgment. On the contrary, given that an impeachment mechanism has certain legal requirements, including precedents of the Basic Law and the Common Law, it requires careful examination of various integrated evidence to see if they can serve as proofs, and whether the venue and time is accurate. Members with legal background or other solicitors and barristers have carefully examined every single charge — some colleagues even used "burning the midnight oil" to describe their preparation of the charges and prosecution case statement.



With regard to the time, almost all of the charges are concerned with events that happened before Mr LEUNG Chun-ying resumed office. With regard to the space, most of them did not happen on formal occasions or in this Council. As many colleagues have made the allegation of "lying", we therefore have to look very carefully at the nature of the lies. Of course, as some colleagues have said, Article 64 of the Basic Law provides that the Chief Executive of Hong Kong must answer questions raised by Members of the Council. But after carefully examining the background of this article, we can see that the phrase "answer questions" obviously refers to the answering of questions on policy implementation, and does not include statements or responses which the Chief Executive makes in response to certain accusations either voluntarily, under pressure or for political purpose.

Since I have touched on the Basic Law, I would like to mention in passing Article 47(1) ..... Let me see if I have made a mistake ..... concerning the integrity issue. It is true that there are discrepancies between the Chinese and English versions. In the English version, the keyword is "integrity", but in the Chinese version, it was rendered — Perhaps I should not use the word "rendered" as the Chinese version should prevail — the Chinese rendition is "廉潔奉公". According to the guideline laid down by the Standing Committee of the National People's Congress (NPCSC), in the event of any conflict between the Chinese and English versions, the Chinese version should prevail. There are certainly discrepancies between the Chinese and English versions of the Basic Law. As Mr TAM Yiu-chung has said, "integrity" is concerned with, for example, acts of corruption, neglect of duties and the pursuance of self-interest but not public interest. On the contrary, if it is purely a matter of personal conduct, I am afraid that acts which are on the verge of violating but have not violated the criminal laws, or acts involving personal ethics such as having extra marital affairs or children born out of wedlock, or even making statements which are not totally honest on certain occasions, do not meet our requirements. In this connection, both time and space are important factors. Therefore, when we look at those three charges, we must remind ourselves time and again of the distinction between time and space.

Although I have tried to explain the concept of "duty", Members may still find it difficult to understand. While Mr LEUNG Chun-ying's coming to the Legislative Council to give an account of his UBWs incident can be seen as his duty as the Chief Executive to give explanation to this Council, his explanation

can be broken down into the policy and the enforcement of laws on UBWs, or the wrongdoings or neglect of duty on the part of his subordinates in the UBWs incident. All these fall under his purview. However, if the explanation, analysis or remarks made by him are only concerned with the UBWs at his residence, they do not fall under his purview. We must therefore clarify if the explanation made by him in this Council is "*qua* personal" or "*qua* Chief Executive".

President, just now, I have briefly touched on the issue of lying. Take former President CLINTON whom Members are familiar with as an example. Back then, in order to deny having extra-marital affairs and having so-called "sex" with Monica LEWINSKY, he used language "hypocrisy" to define "sex". Any way, he was impeached because of his personal conduct. And yet, Members should not forget that the impeachment was brought against the background of another case concerning the investigation of JONES, in which CLINTON had to give evidence under oath. He was nonetheless subsequently found or perceived to have lied. His problem is therefore not simply telling lies, but lying under oath, which is perjury (meaning the making of false declaration) and is therefore different from this case.

Earlier, a colleague — should be Ms Cyd HO — cited the example of BLAIR, who was accused of telling lies or providing false information. It is about the handling of a national policy by BLAIR, in his capacity as the Prime Minister, on whether they should go to war. People doubted if he had covered up, lied or exaggerated about the so-called weapons of mass destruction. This had significant implications as it was deemed as making false statement in respect of the policy. Having said that, the case was dealt with by a no-confidence motion in accordance with the conventional political system of the United Kingdom.

I wish to mention in passing that just now Mrs Regina IP has briefed us on some related cases of the United Kingdom and the United States which we are more familiar with. As a matter of fact, looking at the history of the United States — just as Mrs Regina IP has said — the no-confidence motion had only been moved twice. Apart from CLINTON's case, another one concerning JOHNSON is a more obvious case of open defiance of the law. At that time, the Congress passed an Act to restrict the President from arbitrarily firing Cabinet officials without the consent of the Senate. As JOHNSON had vowed not to

comply with the Act and insisted to fire Cabinet officials, he was therefore impeached. I have already briefed Members on CLINTON's case. For NIXON, as Members may be aware, he was not impeached as he had promptly resigned.

And yet, the charges of NIXON were pretty serious as they involved open defiance of procedural justice, contempt of Congress, and many other unlawful acts such as burglary, breaking into private places, misusing the Central Intelligence Agency, and so on. Only under these circumstances can the impeachment proceedings of the United States be properly launched.

In sum, before initiating an impeachment proceeding, one must know exactly what it is all about. Unlike a no-confidence motion, it is a legal process. A no-confidence motion can be initiated when a person is generally perceived to be untrustworthy, or have moral or ethical problem, whereas an impeachment proceeding must be launched with great caution. I have once cited an example of using different tools for different work procedures. If we want to knock a nail in, for example, we would use a hammer; if we want to drive a screw in, we would use a screwdriver. Special nails would even require the use of spanners. In other words, appropriate tools would have to be used for different procedures. In this case, the appropriate tool is the no-confidence motion moved by us in the last meeting.

Even though we — including me — have tried to convince our colleagues to accept the no-confidence motion, we must admit that the procedure has completed and no matter what, the majority of Members of this Council do not support that motion, despite the fact that there are cases where the majority view of this Council is not consistent with the majority view of the community. The majority of Members do not seem to support ..... not seem, but in practice, do not support the no-confidence motion while more than half of the voices from the community do not support Mr LEUNG Chun-ying to continue to serve as the Chief Executive. This is, to a certain extent, the conclusion of the no-confidence motion. After all, from a constitutional perspective, this is the reality that we must accept for the time being.

If we revisit an old issue but adopt a more stringent procedure which requires extra caution and a higher standard of proof when the no-confidence

motion, which is more simple, subjective and arbitrary failed to get passed in the last meeting, I am afraid that the present impeachment motion, which is more concrete and meticulous with stringent requirements, will not be passed or introduced so easily.

Many colleagues said that this is just an investigation mechanism, and an investigation will commence upon the passage of the motion. I recall that in the previous term, this Council had debated on the invocation of the Legislative Council (Powers and Privileges) Ordinance to investigate former Chief Executive Donald TSANG. During the motion debate held on 22 March 2012, Dr Margaret NG had made some remarks on the incident — I certainly respect Dr Margaret NG very much for she is one of the most experienced Members, and she has demonstrated great perseverance in procedures, especially procedural justice — in page 324<sup>7</sup>, she remarked that, "When we hastily initiate this mechanism and proceed to such an important procedure without making everything clear, this is actually weakening the powers of the Legislative Council, because in order to maintain the credibility of the Legislative Council, we must respect the constitutional system in every step we take."

President, we should not "do something for the sake of doing it" just to state our political position, stay in the limelight or create a historical record. We are now betting on the credibility of the Legislative Council and ourselves. If we arbitrarily trigger the mechanism without the necessary conditions, justifications or legal basis, this may, to a certain extent, constitute a dereliction of duty on the part of the Legislative Council.

Against this background, we must therefore be very cautious and should not arbitrarily vow to "return justice to someone". This is a very common reason, vowing to give the relevant person another chance by launching an investigation. Whatever the accusations or allegations are, before triggering the mechanism, one must consider whether the allegations are sufficient to constitute a charge if they are substantiated, and whether there is sufficient evidence. We cannot always use "giving him a chance to explain" or "returning justice to him" as justifications for such justifications are pretty weak.

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<sup>7</sup> The floor version of Hansard

President, under this circumstance, although I have no confidence in Mr LEUNG Chun-ying, I am afraid that I cannot lend my support to this mechanism. Thank you, President.

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

**MR ABRAHAM SHEK:** President, I did not intend to speak at first. But having listened to Mr Paul TSE, I must say I do not agree to his interpretation of Article 47 of the Basic Law, which touches upon a difference in meaning between the English version and the Chinese version of Article 47. President, if we accept Mr Paul TSE's argument concerning Article 47, our stance of not supporting today's motion will be weakened. The reason is that while Article 47 reads "The Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties", integrity actually embraces many aspects. Corrupt practices are against integrity. Telling lies is also a question of integrity. So, one really cannot put oneself into such a situation of interpreting the Basic Law with such a narrow stance. If we accept this stance, President, we will put all of us in Hong Kong or the very nature of the Basic Law onto very dangerous ground. One must approach the whole interpretation of the Basic Law, our very constitution, in a more purposeful manner. And, that is very important. We must not twist our argument just for the sake of supporting our stance.

Regarding today's motion moved by the 27 Members, Mr Alan LEONG was saying that these Members represented 56% of the total number of voters. And, today's motion is moved under Article 73(9) of the Basic Law to charge the Chief Executive, Mr LEUNG Chun-ying, with serious breaches of law and/or dereliction of duty, and to seek this Council's support for giving a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent committee to investigate the alleged serious breaches of law and/or dereliction of duty and to report its finding to this Council. This is a motion for investigation. Given that this is the first motion for investigation since the handover, I believe I should make a serious response to this significant motion.

Article 52, President, reads "The Chief Executive of the Hong Kong Special Administrative Region must resign under any of the following

circumstances: (1) When he or she loses the ability to discharge his or her duties as a result of serious illness or other reasons; .....". This is very important because basically Mr LEUNG must be in good health, otherwise he would not be running around Hong Kong to understand the wishes of the people and work hard on his Policy Address. So what is involved must be "other reasons". And, if we interpret "other reasons" in such a narrow manner as Paul has just suggested, the situation will be very dangerous. The "other reasons" which the 27 Members have raised are that he has told lies, and that he has more than ..... to the extent that he is involved in negligence of his duty — and that is something that we must debate. And on that basis, the opposition party or the 27 Members of this Council who represent 56% of the popular vote have yet to prove that Mr LEUNG has told lies.

Mr LEUNG has come over here to defend himself and apologize for some of his deeds in the past. And, I think if we are to support today's motion, we must provide solid proof that Mr LEUNG has indeed told lies; otherwise, how can we ask the Chief Justice to start investigating the case when there is no proof of any integrity problems? This is required under Article 52. Also, in his very eloquent speech, Mr Dennis KWOK explained why they have to move this motion. Over and over again in his speech, he said that if we defend "CY", we will be acting in contravention of the rule of law — something along this line — and that we will be creating cracks within the constitution. I dare say that voting against this motion does not mean that we are defending "CY". Voting against this motion ..... Again, let me refer to Article 43 of the Basic Law, which reads "The Chief Executive of the Hong Kong Special Administrative Region shall be the head of the Hong Kong Special Administrative Region and shall represent the Region." He is not "Mr CY" in the present context; he is the head of the Hong Kong Special Administrative Region. And, it is on this very basis that we are here to defend the head of the Hong Kong Special Administrative Region, and this we must do unless there are proven reasons that he has told lies and acted in any manner not befitting the position of Chief Executive. I think it is very important and necessary for us to defend this very Government, unless there are other proofs that they have acted differently from what is stipulated in Article 43. Defending the Government will not create any cracks within the Basic Law in regard to Article 43; defending the "CE" — not "CY" — under Article 43 will not create any cracks within this constitution; defending the "CE" will not result in any violation of the rule of law. This is exactly what we are doing: we are

preserving the very system that the Basic Law has given us, defending the rule of law, and defending what makes Hong Kong different.

No doubt, over the last few months, the Chief Executive's handling of his unauthorized building works has been less than satisfactory — that is the truth. And, in a way, he has been rather mean with the truth — mind the word I use; I say "mean with the truths", and I have to say this does not mean he has told any lies. "Being mean with the truth" only means that he has given the truth in bits and pieces. Moreover, his contradictory replies have made his case even more contentious, particularly in the minds of my Honourable colleagues, the 27 signatory Members. Instead of clearing his own name, "CY" has actually planted doubts in the minds of many people, particularly the 27 Members concerned. His integrity and commitment to the post of the Chief Executive of Hong Kong are questionable to many people, particularly these 27 Members. Most importantly, it is alleged today by many Members that during the Chief Executive Election, he attacked his rival, Mr Henry TANG, who is my friend, for his unauthorized building works — and God bless Mr TANG that he did not get the job.

He gained the trust of the public — as alleged by many of my colleagues here — and ultimately won the election by raising doubts about Mr Henry TANG's integrity. However, with the subsequent revelations about his own unauthorized building works by the 27 Members and many, many others in Hong Kong representing 56% of the population, people begin to say that "CY", the Chief Executive of Hong Kong, did not win the election honourably. This is the very basis of the 27 Members' argument, and this argument is indeed sound, but they have not given any proof. That is why the whole basis of their allegation is built on very weak ground. And on that basis, if we are to support their motion, we will bring a change to Hong Kong's stance of upholding that very common law principle which all of us are so well-versed in — "no man is guilty until proven so". And, they have not proven that he has lied; they have not proven that he has been having an integrity problem since he took office on 1 July. So, how can we support this motion which they move under Article 73(9) of the Basic Law? And, it follows that our supporting him does not in any way jeopardize our very constitution, the Basic Law, nor does our support for him jeopardize the very essence and core of our rule of law.

I think in a way, the 27 Members have also given us a very good lesson today, and this is a lesson that the pro-establishment Members must learn. The 27 Members' unity and commitment to the cause they believe in must be respected. We pro-establishment Members must learn from the 27 Members that we must unite ourselves to fight for what we believe in and what we want to do for the sake of Hong Kong.

President, I have not done too much preparation for my speech today, but I think it is very important that we should look ahead and see what lies in the future. We must work together with the 27 Members and put aside our differences. Putting aside our differences is important because we need to start afresh and seek common good. As all people know, during the Chief Executive Election, I was a supporter of Mr Henry TANG. But now that the election is over, I do believe that it is time for us to look forward and fight for the good of Hong Kong. As I said earlier, we must give a chance to "CY", give a chance to the Chief Executive as described under Article 43 of the Basic Law. We will closely monitor his actions and policies. We should give the Chief Executive and his governing team fair support in their work and criticize them fairly if necessary. I strongly believe that we — the 70 Members here — all share the same goal of improving people's livelihood, the economy and society as a whole. This goal will help us right past wrongs. This goal will help us put Hong Kong back on the right track. And, I do not buy some government people's allegation that this Legislative Council is holding up the progress of implementing policies good for the livelihood of Hong Kong or Hong Kong people. The plain fact is: If the Government works hard, it will have sufficient voting support from our pro-establishment political parties for its good policies. Anybody trying to counter such policies will be doing something detrimental to their own standings in the eyes of electors. After all, the 70 of us are all returned by elections.

President, the goal that I have referred to will put us back on the right track — that makes me sound very much like a railway man. It is a harsh fact that the last Chief Executive Election turned out to be a parody of scandals, smearing campaigns and open confrontation. Let bygones be bygones. In this election, instead of looking at the election platforms put forward, the public only focused on the candidates' ability and their ruling teams. Frankly speaking, if such an unhealthy development is to continue, not only will our elites hesitate to join the Special Administrative Region Government to serve our society, but Hong Kong's overall political environment will also be thrown into disarray. I do not



think that the development which occurred in the past Chief Executive Election is good for Hong Kong. And, we should be moving forward and working for democratization and the implementation of universal suffrage in Hong Kong. That is a solution. If they are no good, vote them out. But by plunging someone into a situation described in Article 73(9) of the Basic Law ..... Unless we have very strong evidence to prove the relevant allegations, we must not make any such attempts lightly.

President, 15 years ago, when China was still a very backward and conservative society with a narrow mindset, Mr DENG Xiaoping already said, "It does not matter whether we have a white cat or a black cat. Any cat that catches mice is a good cat." Indeed, this statement subsequently led to various accusations that made him step down. However, when he regained his post, Mr DENG still firmly believed in this statement, and by showing that ideology is not the only valid measure, and that political considerations and established practices should also be references for decision-making, this statement eventually transformed China into what it is today. This was why China introduced the opening-up policy, which contributed to the country's success today. As I said, let us all work together for the good of the people. Thank you, President.

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

**MR IP KWOK-HIM** (in Cantonese): President, today, I wonder how many times the terms "serious breaches of law" and "dereliction of duty" have been used in the speeches of Members from the pan-democratic camp in this Chamber to justify the proposal of an impeachment motion against Chief Executive LEUNG Chun-ying. I am confident that people who are listening to this debate are still unable to figure out the details of the charges, namely "serious breaches of law" and "dereliction of duty", which Members from the pan-democratic camp made against Chief Executive LEUNG Chun-ying in this meeting. From this, we can see how abstract and weak the accusations are.

Today's impeachment motion is the limelight of the "Down with LEUNG" political show staged by Members from the pan-democratic camp. The previous no-confidence motion and the motion seeking an invocation of the Legislative Council (Powers and Privileges) Ordinance to inquire into the unauthorized

building works (UBWs) issue are just the prologue, and today's impeachment motion is the limelight. Mr WU Chi-wai just now said that this motion would not get passed under the existing separate voting system, but I hold that even in the absence of the separate voting system, the motion is not going to be passed either. Actually, Members from the pan-democratic camp are well aware of this political reality. Despite knowing the impossibility to succeed, they still do so for the sake of political interests. This is because even if the impeachment motion is voted down, it has successfully made Chief Executive LEUNG Chun-ying the first ever Chief Executive in history to be impeached, thereby ruining the governance credibility of the SAR Government and making its future governance even more difficult. This has been clearly explained by Mr Albert CHAN in his earlier speech.

At present, Hong Kong's greatest problem is the excessively politicized social environment. Under political manipulation, the UBWs issue has been escalated to an integrity issue. Although only three months have passed for this Legislative Session, a lot of time has been spent on discussing motions concerning the Chief Executive's UBWs issue and "Down with LEUNG", while issues concerning the economy and people's livelihood which are of the gravest concern to the public have been neglected. In the Christmas message released by Archbishop Paul KWONG of Hong Kong Sheng Kung Hui some time ago, he chided some speculative politicians — as some Members have quoted earlier — saying that (I quote) "Apart from rubbing salt into the wound over contentious issues, are there more meritorious and meaningful things that can be done?" (End of quote) Who is rubbing salt into the wound of other people instead of doing meaningful things? I believe Members should know the answer and there is no need for me to elaborate.

Mr Dennis KWOK, who has taken part in the drafting of the impeachment documents, held that it was a constitutional duty to initiate an impeachment proceeding against the Chief Executive. While it is right that impeachment against the Chief Executive has been provided for in the Basic Law, the relevant threshold is pretty high. The stringent requirement of the mechanism aims to prevent abuse, which may undermine the governance. With regard to the present UBWs issue concerning LEUNG Chun-ying, the Court has confirmed that there was no contravention of the election law, whereas the Buildings Department has also ruled out the need to carry out criminal investigation. Nonetheless, Members from the pan-democratic camp insisted to hastily propose

this impeachment motion before the "Down with LEUNG" march held on New Year's Day. This seems to serve a staging effect rather than performing the so-called constitutional duty.

According to the Basic Law, the Legislative Council's invocation of impeachment proceedings against the Chief Executive must be based on two types of allegations: the first one is "serious breaches of law" and the second one is "dereliction of duty". President, it is true that the existence of UBWs at the Chief Executive residence has certainly breached the Buildings Ordinance, but this is absolutely not "serious breaches of law". However, in the impeachment document, he was accused of intentionally making false or misleading statements, which constitutes the offence of "misconduct in public office", "serious breaches of law" and even dereliction of duty. The Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) considers that all these allegations were actually moral judgment made by Members of the opposition pan-democratic camp with tinted glasses and disregarding the facts, in the hope of insulting the Chief Executive.

Whenever LEUNG Chun-ying's memory failed him, or he forgot or mistook something, Members from the pan-democratic camp would accuse him of using "hypocritical rhetoric" and having "integrity problem". Just now, I heard Mr Albert HO say that Martin LEE and Mr Dennis KWOK were very serious and meticulous in drafting the impeachment document. And yet, upon receipt of the draft version prepared by the pan-democratic camp, I found six mistakes with respect to the dates of the Question and Answer Sessions of the Legislative Council. The mistakes were only corrected after Mr CHOI Ngai-min pointed them out. How come the pan-democratic camp is given allowance for wrongly recalling something which took place recently but LEUNG Chun-ying is not allowed to remember wrongly the incidents which happened more than a decade ago? Is this a double standard? If wrong memory or mistake is considered as telling lies, then were Martin LEE and Mr Dennis KWOK telling lies? May I ask, is an exaggeration of the number of participants in the march by the pan-democratic camp regarded as telling lies? Is this an integrity problem? Just now I heard Mr Gary FAN say that there were 140 000 people taking to the streets on New Year's Day, and Mr Charles Peter MOK said 130 000 and he went on to criticize people who have suggested 8 000. While CHENG Yiu-tong said that there were 60 000 participants, Mr Charles Peter MOK said the number should be 130 000. As Members may be aware, the

number suggested by the academics are often significantly different from that released afterwards. How should we look at such exaggeration? Is this tantamount to telling lies? The Civic Party asked Madam CHU to file a judicial review on the Hong Kong-Zhuhai-Macao Bridge project, but then Madam CHU admitted that she was made a "dumb fool". Had the Civic Party lied? Is this an integrity problem? I therefore call on Members from the pan-democratic camp not to adopt double standard on the integrity issue.

In fact, after listening to Members' speeches, I eagerly hope that Mr Ronny TONG will withdraw his remark made at the meeting concerning disrepute. Just now I heard Mr WU Chi-wai say that Members should support the impeachment against Chief Executive LEUNG Chun-ying for the sake of returning justice to him. I also heard many Members from the opposition camp hold the same view. Mr WU was so authoritative that he has taught Members from the pro-establishment camp a lesson by citing the remark made by President XI Jinping, and demanded that they should support the impeachment motion. I think this is spectacular to Hong Kong people.

President, the DAB admits that the Chief Executive did make mistakes in the UBWs incident, but this does not involve the problem of integrity. What is more, the Chief Executive has apologized to the public time and again, and the incident has already dealt a serious blow to the credibility and support of the Chief Executive himself, his governing team and the entire SAR Government. The Chief Executive has therefore paid a high price for this. If this Council arbitrarily escalates his negligence or mistakes to "serious breaches of law" and "dereliction of duty" without justified grounds, and forcibly launches the impeachment proceedings, it is tantamount to using the constitutional functions provided in the Basic Law as a tool for political struggle to create a constitutional crisis. This is absolutely not for the well-being of Hong Kong, nor is this acceptable to Hong Kong people. I must sincerely advise Members of the opposition camp to "drop the cleaver and become Buddha". Members of the public are very tired of the never-ending political shows staged by the pan-democratic camp to attack the Chief Executive's UBWs. They should put a full stop to all these.

With these remarks, President, I oppose the motion.

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

**MR SIN CHUNG-KAI** (in Cantonese): President, over the past month or so, both the motion of no confidence in the Chief Executive and the motion proposing to appoint a select committee for investigation had been voted down by the pro-establishment camp. And yet, Members should be well aware that the truth is crystal clear and there is no doubt that the crux of the issue is whether or not the Chief Executive has lied in this Council. This is also the basis of our allegation of "dereliction of duty" against him.

After all, the evidence is clear to all and a lot of facts have been given during today's debate on the impeachment motion. When Chief Executive LEUNG Chun-ying briefed the Legislative Council on the previous occasions, he has used some beautiful words in an attempt to cover one lie with another and conceal the facts as if he has not lied. However, the fact is clear to all. Would a person who is so shrewd or "leakproof", as described by the DAB, vow that there were no UBWs in his house simply because he was unaware of their presence or his memory has failed him?

Evidence has clearly shown that, last year, though well aware of the UBWs at his residence, he chose to mislead the public through media coverage, thereby giving an impression that there were no UBWs in his house, and covered up the facts as if he was unaware of or has inadvertently forgotten the UBWs in his house. Yet, the crux of the issue is not whether there were UBWs. This is because if we randomly inspect one quarter or one third of households in Hong Kong, it will not be surprising to find that they have UBWs in their units, no matter large or small. The question is, under the Basic Law, the Chief Executive must report to the Legislative Council and should not lie to it. Likewise, all government officials should not lie when answering questions from Legislative Council Members. This is the crux of the issue.

Nonetheless, politics is politics. In order to secure the Chief Executive post, LEUNG Chun-ying had not only lied to Hong Kong people, but also to the Central Government which appointed him as well. Perhaps even the Central Government was not aware of the UBWs at his residence, or had been fooled by him when it was briefed on the case. There are rumours that LEUNG Chun-ying enjoys the favour of HU Jintao and was therefore appointed. As

Members may recall, there were numerous negative news reports during the election period. Were they released by supporters of LEUNG Chun-ying alone? Is it possible that the information were collected and released by some other bodies for the purpose of attacking their rivals?

After the incident came into light, "the fire could no longer be covered up with paper" and it became so fierce that he got burnt as well. The UBWs incident has become a fire that encircles him. The pro-establishment camp should understand that HU Jintao had completely resigned from all posts and LEUNG Chun-ying's supporter had already retreated from the core of Party power. In that case, it is no longer necessary for people from the pro-establishment camp to overtly defend LEUNG as he will not remain in the Chief Executive post for long. As his supporters lose power, he will follow suit. People are speculating how much longer he can remain as Chief Executive, 18 months or two years. Today's motion is just the beginning.

As I have pointed out earlier, LEUNG Chun-ying has not only lied to Hong Kong people. Hong Kong people want universal suffrage but not a Chief Executive having no integrity. The Chief Executive must give a full account of all the facts, be it public duty or personal affairs, not only to the Legislative Council, but also to members of the public. Since he has failed to give a clear account of his personal affairs, it was inevitable that people may suspect that he will cover up the facts or give incomprehensive account of his public duty.

President, people are pretty upset for they have a feeling that whatever action they take will not be successful. Both the no-confidence motion and the motion on the appointment of a select committee to inquire into the matter had been voted down. Today's impeachment motion is not going to be passed either. Members of the public are best at taking to the streets and there have been three large-scale marches in Hong Kong within the six months after LEUNG Chun-ying resumed office: The march on 1 July 2012; the march against national education in late August and the New Year march on 1 January. I believe there will be another march on the coming 1 July. I trust that by the time LEUNG Chun-ying has taken up the work for one year, the total number of people who have taken to the streets to protest against him or the Government will probably exceed 500 000, which is calculated by adding the number of participants of the four marches. This will serve as an impetus for staging protests against LEUNG Chun-ying year-on-year. It will not help regardless of how much effort he put in

the area of people's livelihood. Of course, much was said, yet little was done in respect of people's livelihood. It is therefore hoped that he will put forward some revolutionary proposals next week on 16 January, or else Hong Kong people will be disappointed.

The fact is, so long as the LEUNG Chun-ying Administration fails to establish credibility and win over people's confidence, his governance will be extremely difficult. To put it simply, if LEUNG Chun-ying refuses to step down, not only members of the public and the accountability officials will suffer, but also the entire Hong Kong. Tonight, accountability officials are all sitting in this Chamber to act as LEUNG's supporters. While accountability officials are certainly obliged to protect their boss and leader, it is more important for them to bear in mind that instead of serving the LEUNG Chun-ying's government, they are actually serving Hong Kong people. LEUNG Chun-ying is, after all, an appointed principal official. Allowing a government lacking integrity to continue with its governance will only put the development of Hong Kong at stake and lead to endless attrition.

The aspiration of members of the public is indeed very simple, and that is, a political reform, a genuine political reform. And yet, can we implement genuine universal suffrage in 2017 and 2020 under the political reform led by a government lacking integrity? This question has cast a shadow over Hong Kong's prospect and probably runs counter to the original intention of the Central Government to appoint LEUNG Chun-ying as the Chief Executive. On the day when LEUNG Chun-ying was elected the Chief Executive, he had vowed to bid for a second term in 2017. Although he had not used any specific terms, he had actually indicated his wish to become a Chief Executive returned by universal suffrage in 2017. If LEUNG Chun-ying continues to govern in the present way, even after he completes his five-year term — to which I doubt — I wonder if he will still be able to solicit public support when genuine universal suffrage is implemented in 2017. This is only possible if the nomination threshold for the selection of the Chief Executive is so high that no one else could take part in it.

President, members of the public are upset because LEUNG Chun-ying was not elected by voters. Different opinion polls showed that the popularity rating of LEUNG Chun-ying is the lowest among all Chief Executives during the first six months of his office. From his two predecessors TUNG Chee-hwa and Donald TSANG to the last Governor PATTEN, the popularity ratings all

exceeded 60% during the so-called "honeymoon period" soon after they resumed office. Donald TSANG had even recorded a rating of over 70% in his early governing period. LEUNG Chun-ying, on the other hand, has an average rating of about 50% after resuming office, with the highest rating of about 52%. For three months, he had even failed to get a passing rate. We can therefore see that apart from giving him low popularity ratings and protesting on our feet, not much can be done by members of the public. The system has made them feel very helpless and disappointed.

Today, being a Member who has signed the impeachment motion, I have no regret but feeling glorious. We have at least proposed this impeachment motion in the Legislative Council on behalf of the tens of thousands of people who took to the streets on 1 January. I believe this impeachment motion is not only the aspiration of 27 Members, but also of the general public. We are merely relaying their aspirations and wishes, and we feel so honoured to do so.

Since Mr IP Kwok-him just now called on us to put down the cleaver, I would like to make a response. The person who should put down the cleaver is LEUNG Chun-ying. This is the only way to give Hong Kong people a chance. Only if he ceases to be the Chief Executive can Hong Kong people have a second chance. Dr CHIANG Lai-wan, on the other hand, said "a snake without a head cannot crawl". The problem with the entire governing team is, however, though it is a snake with a head, it gives people an impression that it is sharing the den with rats. Only six months after they took office, two government officials have been impeached by us and one member of the Executive Council has been suspended from office. This fully reflects that Hong Kong really needs to have some changes from top down.

The purpose of today's impeachment motion is not only to successfully impeach the Chief Executive, but also to urge LEUNG Chun-ying to consider giving Hong Kong people a chance because Hong Kong can start afresh if he steps down. Hong Kong has many outstanding developments and problems, but may I ask how much effort and time has the new-term Government spent on addressing LEUNG Chun-ying's integrity problem, UBWs issue and lying problem over the past six months? The greatest contribution of his resignation will be to give Hong Kong people a chance to have a new government, so that the new governing team will lead us embark on a new course.



I hope that Members from the pro-establishment camp will understand that we are not pinpointing at one person. Rather, we hope that the Government can find a way out. Actually, in many cases, political leaders from different parts of the world did not step down because of their governance. Poor governance may not necessarily lead to their downfall, but it is the major reason accounting for the lost of their bid for a second term. The downfall of political figures often owes much to their integrity, and they would be forced to resign. There may be Presidents or Prime Ministers who do not perform well and are incompetent, but they are elected by the people after all. Hong Kong, however, does not have any choice. If Hong Kong people are given a choice, they may reconsider if they will vote for LEUNG Chun-ying in his next bid. Nonetheless, Hong Kong people are not given such a chance for the time being. Although it is still uncertain if he has a chance to bid for a second term or Hong Kong people have a chance to choose for ourselves, LEUNG Chun-ying should at least give Hong Kong people a chance by stepping down, thereby enabling Hong Kong to embark on a new course.

President, the Democratic Party fully supports today's impeachment motion. A number of Members asked right at the beginning what else can be done if even an impeachment motion has been initiated. I believe members of the public should know very well that they can only fight with their feet. Simple enough, if today's impeachment motion is voted down, we will meet again on 1 July 2013.

With these remarks, I support the motion.

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

(No Member indicated a wish to speak)

**CHIEF SECRETARY FOR ADMINISTRATION** (in Cantonese): President, I have been listening carefully to the speeches made by 30-odd Members over more than seven hours. I will now give a concluding reply to today's motion.

Just now, Mr Abraham SHEK cited the provisions of the Basic Law in his speech. I would first like to briefly explain the principles and design pertaining

to the relationship between the Executive and the Legislature as stipulated in the Basic Law. According to the design and relevant provisions as stipulated in the Basic Law, the political system of the Hong Kong Special Administrative Region is an executive-led system. The Chief Executive shall be the head of the Hong Kong Special Administrative Region (SAR) and shall represent the Region. He shall be accountable to the Central People's Government and the SAR in accordance with the provisions of the Basic Law. The Chief Executive shall be selected by election and be appointed by the Central People's Government. The Chief Executive shall also be the head of the SAR Government and shall lead the SAR Government in administering Hong Kong in accordance with law. According to the Basic Law, the SAR Government must be accountable to the Legislative Council in four aspects, namely, it shall implement laws passed by the Council and those already in force; it shall present regular policy addresses to the Council; it shall answer questions raised by members of the Council; and it shall obtain approval from the Council for taxation and public expenditure. Therefore, as pointed out by Mr TAM Yiu-chung, the Executive and the Legislature should regulate each other as well as co-ordinate their activities.

Although the Chief Executive is the head of the SAR under the Basic Law, the Chief Executive and the SAR Government would listen to the criticisms and views made by all sectors in the community, including the Legislative Council, on our administration with a humble attitude and an open mind, in order to achieve people-based governance serving the best interest of the whole community.

President, today is the third discussion held by the Legislative Council on the subject of unauthorized building works (UBWs) at the private properties owned by the Chief Executive. Earlier, Mr WU Chi-wai moved a motion of no confidence in the Chief Executive, and then Mr LEE Cheuk-yan moved a motion to invoke the Legislative Council (Powers and Privileges) Ordinance to set up a select committee to investigate into the issue of UBWs at the properties owned by the Chief Executive. Both of them have been vetoed by the Legislative Council after thorough debate. The subject is now debated again in the Council in the context of the impeachment procedure provided under Article 73(9) of the Basic Law. However, the UBWs at private properties owned by the Chief Executive and the related issues are poles apart from the threshold for activating the impeachment of the Chief Executive under the Basic Law. In this regard, clear explanations have been given by Mr TAM Yiu-chung and Mrs Regina IP in their

speeches just now. The speeches made by these two Members are particularly relevant as Mr TAM had taken part in the drafting of the Basic Law personally, while Mrs Regina IP has made a comparison with overseas systems. Hence, as stated clearly by several Members who oppose the motion, it is neither appropriate nor necessary to move another motion again today, not to mention that, as Mr TAM Yiu-chung has pointed out, a set of comprehensive impeachment procedures is not yet available.

Outside this Council, Mr Albert HO filed an application in late June last year for leave to apply for judicial review and also an election petition against the election result of the Chief Executive election, and Mr LEUNG Kwok-hung also filed an application for leave to apply for judicial review. The Court had already made its judgment in these cases, and dismissed the applications involving the making of false statements.

It is clear that the impeachment motion proposed by Members lacks sufficient grounds. Some Members suggested that today's motion is not a discussion on the Chief Executive's governance ability, but his integrity; yet some Members who proposed the motion have criticized, in their speeches, the Government's administration or even specific measures in recent months. As a matter of fact, there is no question about the Chief Executive's determination to serve Hong Kong. He understands that Hong Kong is now facing many deep-rooted and complex questions, but these problems might not necessarily be resolved in one go. Likewise, in their speeches, some Members used this motion as an excuse to attack individual members of the accountability team, but I strongly believe that both I and my colleagues in the accountability team remain the same in our unwavering commitment to serving the people. Some Members described the past six months as a tempestuous time, but others considered that these six months stand testimony to the conscientious efforts made by the Government in doing real work.

In fact, after assuming office for 10 days or so, the Chief Executive and his team, as well as the colleagues in the Civil Service have already grasped every opportunity earnestly to fulfil the election pledges and introduce various measures to benefit the public. When attending the Question and Answer Session of the Legislative Council in mid-July, he announced many measures to bring benefits to the people, which include introducing the Old Age Living Allowance (OALA), increasing the value of elderly healthcare vouchers, allowing a certain number of

applicants with White Form status to purchase Home Ownership Scheme flats with unpaid premium, and so on.

The Chief Executive cares about issues of concern to the people. He concurs that there is a pressing need for Hong Kong to resolve the housing problem, and regards it a top priority of the current-term Government. Under the helm of the Chief Executive, the Government started off by announcing a series of short and medium-term measures in August to advocate "Hong Kong property for Hong Kong people" and increase land supply. Subsequently, in October, the Government announced another round of demand side management measures, which included increasing the rate of the Special Stamp Duty and introducing a Buyer's Stamp Duty. Understanding people's concern about the limited resources in society, the Chief Executive has taken decisive actions to handle the problem of doubly non-permanent resident pregnant women coming to give birth in Hong Kong, and halt the expansion of the Individual Visit Scheme. He is particularly concerned about the livelihood of the grassroots. After he assumed office, he has immediately introduced the OALA to assist the elders in need, advanced the implementation of the concessionary scheme for the elders to travel on MTR and franchised buses for \$2 per trip to facilitate them moving around, re-established the Commission on Poverty, and announced the setting of a poverty line. Moreover, the Chief Executive attaches great importance to the people's voice. Soon after he assumed office, he had visited various districts to solicit public views. He has also attended the Question and Answer Session of the Legislative Council thrice within the past five months.

Meanwhile, the Chief Executive has not lost sight of Hong Kong's long-term development. He has already led his Government team in setting up the Long Term Housing Strategy Steering Committee, as well as several preparatory task forces for the establishment of the Economic Development Commission, the Financial Services Development Council and the Chinese Medicine Development Committee to ensure that Hong Kong will continue to build on its existing advantages in the course of seeking the scope and future direction of Hong Kong's development.

The Chief Executive fully understands the importance of people's trust on the Government as well as himself. Hence, as I pointed out in my opening speech, the Chief Executive has already explained the issue of UBWs at his Peak properties. I believe that the Chief Executive values very much people's

expectation on him and hence, he hopes that the matter can be settled expeditiously so that he and his Government team can once again stay focused on bringing benefits to Hong Kong in a dedicated manner. Next Wednesday, the Chief Executive will announce the first Policy Address of the current-term Government in the Legislative Council. During the consultation on the Policy Address, the Government has noted the expectation and hope of many citizens that the Government could lead Hong Kong in resolving the problems of housing, poverty, elderly care, environmental protection and conservation, economic development, and so on, so as to bring about better development opportunities for Hong Kong as well as our next generation.

I sincerely hope that today's debate is the last of its kind in this Council, so that the Chief Executive and his Government team can once again stay focused and work in concert with the public as well as Members of the Legislative Council in resolving the difficulties of Hong Kong and bringing benefits to the people.

President, I so submit and implore Honourable Members to oppose the motion moved by Mr LEUNG Kwok-hung. Thank you, President.

**PRESIDENT** (in Cantonese): I have decided to suspend the meeting after this motion has been dealt with. I now call upon Mr LEUNG Kwok-hung to reply. This debate will come to a close after Mr LEUNG has replied.

**MR LEUNG KWOK-HUNG** (in Cantonese): President, first of all, I want to point out that the speech made by Mrs Carrie LAM earlier today is incomplete and untrue. She said, "I believe that the relevant decisions have reflected public opinion and are in line with the overall interest of society". She was referring to the no-confidence motion and the motion urging the invocation of the Legislative Council (Powers and Privileges) Ordinance to inquire into the integrity problem of LEUNG Chun-ying moved earlier on. She said that "the relevant decisions have reflected public opinion", but what public opinion have they reflected? Have they reflected the distorted or genuine public opinion expressed in the Legislative Council? I would like respond to her with a set of figures.

In the recent Legislative Council election, 1.83 million people voted for the seats directly returned from geographical constituencies, and amongst them 1.01 million supported Members from the pan-democratic camp, which means the 27 of us. The remaining Members, meaning the rest of you, obtained 770 000 votes. In response to our call for boycott of the "super District Council" election, the turnover rate was relatively low and we only won by a small margin — a total of 1.67 million people had voted and amongst them 800 000 voted for Members from the pan-democratic camp. LAU Kong-wah was defeated.

What is the public opinion that the Chief Secretary has referred to? Is the public opinion represented by these 27 Members in the Chamber today not the majority view of the community in terms of the number of votes? In other words, the proportion has become much smaller, which is 40-odd people to 50-odd people. But, sorry, Chief Secretary, as I have said time and again, the difference of votes in the presidential election of France is less than 3%. Defeat is defeat, and nothing can be done. Also, she mentioned "the overall interest of society", but I fail to see what overall interest of society is involved.

Mr IP Kwok-him has been working very hard because our former colleague, LAU Kong-wah, has revived from failure after the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) rendered support to LEUNG Chun-ying twice in a row. We can see how competent LEUNG Chun-ying is in telling lies. The revival of LAU Kong-wah from failure has shocked the entire Hong Kong. People later discovered that the Government has issued a statement, explaining that Secretary Raymond TAM thirsted for expertise and thus took the initiative to approach LAU. I feel shameful for Raymond TAM. Secretary Raymond TAM, did you approach LAU Kong-wah in July and ask him not to run in the election if you like him so much? If so, why did you not issue the statement by yourself and take a picture shaking hands with him? LEUNG Chun-ying has slandered his subordinate for the sake of giving political reward. As soon as he arrived at Beijing, LAU Kong-wah revived from failure. Mr IP Kwok-him is certainly very grateful about this, so how can he not give a few more favourable comments? Perhaps he may get promoted to the post of Secretary one day.

Some people said that there was no need to propose this motion, which is inconsistent with the overall interest and a waste of time. Had the Government not insisted to enact legislation to implement Article 23 of the Basic Law in

September 2002 when Hong Kong was plagued by the outbreak of SARS in 2003 and cases of suicide by burning charcoal reached 1 000 each year? At that time, we begged the Government not to do so, but the reply was in the negative. It insisted to enact legislation though Hong Kong was in dire straits. How come it suddenly becomes aware that much have to be done to save Hong Kong? May I ask if the Government was aware of Hong Kong's situation when it proposed to enact legislation to implement Article 23 of the Basic Law in 2003? There was the outbreak of SARS and people committed suicide by burning charcoal. Yet, all senior government officials were made to come here every day? Mrs Regina IP was superb, right? Even Ms Elsie LEUNG and the rest of the senior government officials had come to show their support. Despite 500 000 people took to the streets on 1 July in the end, the Government still tried to conceal the facts and forced through the relevant bill on 9 July. Do they have conscience? How come they are still saying such things today? Forget it, but do not think that I have lost my memory.

Buddy, what have LEUNG Chun-ying done? Chief Secretary Mrs Carrie LAM has adopted LEUNG Chun-ying's undesirable practice of using "hypocritical rhetoric". When she was asked if LEUNG has integrity, she replied that he has done a lot of work. I feel so ashamed of her. I thought that she would have a debate with me, but she did not because LEUNG Chun-ying has drafted a script for her to read out. This is tantamount to giving an old lady in the street \$500 after committing robbery or buying a niche for the deceased after killing him. Can I get away after taking such actions? Stop it! All senior government officials are here.

Furthermore, Members said that LEUNG Chun-ying's integrity problem does not constitute a dereliction of duty. Mr IP Kwok-him has "kissed the wrong ass" because right at the beginning of his speech, he said that it was essential for the two charges .....

(Mr IP Kwok-him rose to his feet)

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

**MR IP KWOK-HIM** (in Cantonese): I feel insulted. What is meant by "kissed the wrong ass"? He has gone too far.

**MR LEUNG KWOK-HUNG** (in Cantonese): Let me read it to you. I quote that Article 73(9) .....

**PRESIDENT** (in Cantonese): Mr LEUNG, according to the Rules of Procedure, Members are not allowed to use offensive language against other Members.

**MR LEUNG KWOK-HUNG** (in Cantonese): No, he has merely "kissed the wrong ass" by mistake and there is nothing unethical. They said that making mistake is no big deal, it is just that they had wrongly .....

**PRESIDENT** (in Cantonese): Mr LEUNG, you should not use such words in this Council and you have to withdraw them.

**MR LEUNG KWOK-HUNG** (in Cantonese): Okay, I withdraw the words "kissed the wrong ass".

**PRESIDENT** (in Cantonese): You have to withdraw these words.

**MR LEUNG KWOK-HUNG** (in Cantonese): Okay. I now solemnly announce that Mr IP Kwok-him had not "kissed the wrong ass". I now change it to .....

(Mr IP Kwok-him rose to his feet again)

**MR IP KWOK-HIM** (in Cantonese): President, I think that he was insulting me once again.



**MR LEUNG KWOK-HUNG** (in Cantonese): I have withdrawn those words.

**PRESIDENT** (in Cantonese): Mr LEUNG, if you use such words again, I will not allow you to continue with your speech.

**MR LEUNG KWOK-HUNG** (in Cantonese): I withdraw. I am going to withdraw those words.

**PRESIDENT** (in Cantonese): You have to withdraw those words.

**MR LEUNG KWOK-HUNG** (in Cantonese): I withdraw. What I mean is Mr IP Kwok-him .....

**PRESIDENT** (in Cantonese): Do not repeat those words.

**MR LEUNG KWOK-HUNG** (in Cantonese): Pardon?

**PRESIDENT** (in Cantonese): If you repeat those words again, I will not allow you to continue with your speech.

**MR LEUNG KWOK-HUNG** (in Cantonese): I get it. I am not using those words again. What I mean is Mr IP Kwok-him .....

**PRESIDENT** (in Cantonese): Whatever you say, withdraw the offensive words that you have just said.

**MR LEUNG KWOK-HUNG** (in Cantonese): I have withdrawn those words. What I really mean is that his remark was wrong. He intended to support the

Government, but has nonetheless made a mistake. The meaning is actually the same. Let me read it out. He said that we accused LEUNG Chun-ying of committing two offences ..... We certainly did. Yet, according to the legal provisions, even if LEUNG Chun-ying committed either serious breaches of law or a dereliction of duty, it is fatal. In that case, LEUNG Chun-ying "does not deserve a death penalty, but a severe punishment is inevitable". IP Kwok-him strongly argued that the Chief Executive has not committed serious breaches of law as he had only asked the Office of the Chief Executive to issue false statements for him, but he has lied when answering questions in this Council and this constitutes a dereliction of duty. Even if Mr Dennis KWOK is persuaded not to pursue making the charge of false statement, how about the responses given by LEUNG Chun-ying when answering questions in this Council. Buddy, what is this if this is not a dereliction of duty? He had lied to people to whom he should be accountable. What is this if this is not a dereliction of duty?

From the military perspective, this is tantamount to giving false reports on the military situation and this is a capital offence. The only difference is that no weapons are used here. He can simply save his words and there is no need to cite other examples of Kuomintang because Kuomintang attaches great importance to military affairs. Is this not a dereliction of duty on his part? He is the Chief Executive, but when we asked him about his integrity in this Council, he told a lie to conceal the facts. What is this if this is not a dereliction of duty? Buddy, do not think that I do not understand Chinese. What else could it be if it is not for private ends? Did he lie for another person's sake? He did this for someone else. He said he did this for his friends, the two lawyers and an architect. He lied for the sake of these people. Buddy, I have yet to "settle accounts" with him. He said that there were three persons, namely Mr XX, Mr XY and Mr XZ. How can I not investigate him when I have seen through the incident?

Therefore, neither he nor supporters and "lickers" of the Government understand. The mechanism is very stringent and we are merely reporting the case. Members may look at Article 73(9). We are only reporting the case to the Council, okay? What comes next? If Members consider our report accurate, the case would then be passed to the Chief Justice for investigation and thus proceed to the investigation stage. If the Chief Justice considers that there is a dereliction of duty, he will submit a motion; but if he considers otherwise,

then nothing can be done. If there is a dereliction of duty, Members would be implored to vote against us.

This is something very solemn and is strictly in line with the common law principles. This is a presumption of innocence and prosecution can be instituted with *prima facie* evidence, to be followed by investigation. If LEUNG Chun-ying is proved to be innocent after the investigation, he will certainly not be convicted. In that case, how can they accuse us of smearing him? The point is LEUNG Chun-ying had erected a wall to seal the basement. He knew very well that it was there but told the reporters publicly that it did not exist. Worse still, he had invited reporters to go there for tea and meal. "YUEN Qiu" was "smart" in pointing out that there was no underlying motive. There is certainly an underlying motive, buddy. The purpose of inviting the reporters to take pictures in his house is to tell them there were no unauthorized building works (UBWs). He was taking advantage of them. Did LEUNG Chun-ying show them the wall in the basement and knock at the wall? I wonder why people still so strongly support him. He merely told reporters that the wooden trellis was not UBWs.

The spate of incidents have brought him to the present predicament, but as he was bogged down in the relevant lawsuits — I had applied for a judicial review whereas Mr Albert HO had filed an election petition — he could continue to lie. Otherwise, he might be bold enough to say on 1 July "Yes, so what?" But in view of the legal proceedings, he dared not say so. He thus continued to fool us here until the lawsuits had concluded. Thieves fear the court. After the trial, he said, "I am a thief, sorry, but the same charge cannot be tried twice". In other words, he has admitted his wrongdoings.

For fear that he might lose in the election petition case filed by Mr Albert HO and the judicial review applied by me, he kept telling lies here, and evaded to admit what he had done. On 16 July, before I was evicted by the President, I told him that a statesman only told the truth but not lies. Therefore, a statesman would say the same thing regardless of whether he is in the Court, in heaven, in hell or in this Council, or in front of his wife or boss. There should not be any difference. But what was his reaction? He refused to give an account on the ground that legal proceedings were in progress. What kind of reason is this? How come Members still strongly support him? Is he not a bad guy?

The most absurd remark was made by Mrs Carrie LAM. She called on us to give him some time and space, saying that he had done some good deeds. Buddy, what should civil servants do? He can be likened to a doctor. I asked him to perform appendectomy, but he cut my rectum instead. I said that I still had great pain in my appendix and asked him why part of my rectum, which was bleeding, had gone. He replied, "Mr LEUNG, intestines are intestines. I did not say whether the appendix or the rectum would be cut". He then continued to argue with me, and I was only stitched up after the debate ended. Now that Chief Secretary Mrs Carrie LAM called on us to give him a chance, saying that the doctor would probably repent. What kind of remark is this? Is this an attempt to give him more time to tell lies or do bad things?

Apparently, this is a political reward, well evident from the LAU Kong-wah incident. He had forced Raymond TAM to grant a political reward and has not corrected his bad habit of telling lies. Mr LEUNG Chi-kin challenged him by saying that all forms of taxation were meaningless. Has he not softened his stance afterwards? While the implementation of the "Hong Kong property for Hong Kong residents" is not a must, he has appealed to the Democratic Alliance for the Betterment and Progress of Hong Kong (DAB) to liaise with local people for the provision of land for the construction of buildings. Are Members of the DAB aware that they are in great trouble? He has passed the ball into their court.

President, they proudly said that my motion will be voted down even in the absence of the separate voting system. This precisely demonstrates that the Council is now completely under their control. They can turn the hell into paradise or *vice versa*, or change man into woman, given that they have secured enough votes. Therefore, do not put the blame on us. All proposals are approved in this Council, they have "exposed" this truth. Even in the absence of a separate voting system, they cannot withstand me. Proposals tabled by the Government at this Council are not required to be approved under the separate voting system, so who is to be blamed? Are they blaming me for wasting nine hours today? He should better go to do some real work, but can he do so? Can he really do real work? Can he refuse to grant political rewards? Is he bold enough to offend the real estate developers? Is he bold enough to offend people having connections with the Beijing authorities? Is he thinking about giving out money? He once said that he would not "give out candies" to the poor, what else can he do then?

Now that land is not available for housing development, and as we can see, Paul CHAN has become pretty miserable as a result of the proposed five Secretaries of Departments and 14 Directors of Bureaux. Paul CHAN originally intended to take up the post as Deputy Secretary, but I had obstructed the proposal and he was unable to resume office. He originally intended to establish a Financial Services Development Council, which will use our hard-earned money to establish sovereign wealth funds, but in vain. He eventually assumed office as a Secretary after MAK Chai-kwong was arrested. What has he prepared to give or contribute to Hong Kong people? He was asked a simple question about the amount of land in hand, but he failed to give the correct answers after repeated attempts. Worse still, he has been operating "sub-divided units". What else can he say? He should better clean up his mess before vowing to do anything. All of them have their own mess. In case any of them encounter any problem in the future, are they going to accuse us again of obstructing their work?

President, I originally do not intend to speak, but I was infuriated after listening to the speeches. Let me tell you, our defeat today will mark the beginning of the "Down with LEUNG" movement.

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

(Members raised their hands)

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

(Members raised their hands)

Mr Albert CHAN rose to claim a division.

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

**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 stop now and the result will be displayed.

Functional Constituencies:

Mr Albert HO, Mr James TO, Mr Frederick FUNG, Dr Joseph LEE, Mr CHEUNG Kwok-che, Mr Charles Peter MOK, Mr Kenneth LEUNG, Mr Dennis KWOK and Mr IP Kin-yuen voted for the motion.

Mr Abraham SHEK, Mr Vincent FANG, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Kin-por, Mr IP Kwok-him, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Miss CHAN Yuen-han, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan and Mr Tony TSE voted against the motion.

Geographical Constituencies:

Mr LEE Cheuk-yan, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Ronny TONG, Ms Cyd HO, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG voted for the motion.

Mr CHAN Kam-lam, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Miss Alice MAK, Dr Elizabeth QUAT and Dr CHIANG Lai-wan voted against the motion.

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

THE PRESIDENT announced that among the Members returned by functional constituencies, 32 were present, nine were in favour of the motion and 23 against it; while among the Members returned by geographical constituencies through direct elections, 33 were present, 18 were in favour of the motion and 14 against it. Since the question was not agreed by a majority of each of the two groups of Members present, he therefore declared that the motion was negatived.

### **SUSPENSION OF MEETING**

**PRESIDENT** (in Cantonese): I now suspend the meeting until 9 am tomorrow.

*Suspended accordingly at sixteen minutes past Ten o'clock.*





## Appendix I

## WRITTEN ANSWER

**Written answer by the Secretary for Food and Health to Mr SIN Chung-kai's supplementary question to Question 3**

As regards the disbursement of *ex-gratia* allowance (EGA) to trawler owners affected by the trawl ban, the information is listed below:

## Progress of the EGA Disbursement Exercise (as at 9 January 2013)

<i>Category of Eligible Applicants</i>	<i>Number of Applicants</i>
Larger Trawler Owners	706
(EGA has been collected by the Applicant)	(307)
Inshore Trawler Owners	269
(EGA has been collected by the Applicant)	(182)
Cases under Appeal	259

**Appendix II****WRITTEN ANSWER****Written answer by the Secretary for Commerce and Economic Development to Ir Dr LO Wai-kwok's supplementary question to Question 6**

As regards whether the Government's funding support to inventors for patent applications covers individual applicants or not, the Patent Application Grant administered by the Innovation and Technology Commission provides funding support of up to \$150,000 to assist local companies and individuals to apply for patents of their own inventions; all applications for functional patents and inventions with technology elements are eligible. All locally incorporated companies, Hong Kong permanent residents or Hong Kong residents permitted to remain in Hong Kong for not less than seven years who have never owned any patents in any countries or territories are eligible to apply. Details of the scheme and the application form are available at <<http://www.itc.gov.hk/en/funding/pag.htm>>