

OFFICIAL RECORD OF PROCEEDINGS

Thursday, 8 February 2018

The Council continued to meet at Nine o'clock

MEMBERS PRESENT:

THE PRESIDENT

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

THE HONOURABLE JAMES TO KUN-SUN

THE HONOURABLE LEUNG YIU-CHUNG

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

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

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

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

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

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

THE HONOURABLE CHAN HAK-KAN, B.B.S., J.P.

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

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

THE HONOURABLE WONG KWOK-KIN, S.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 CLAUDIA MO

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

THE HONOURABLE STEVEN HO CHUN-YIN, B.B.S.

THE HONOURABLE FRANKIE YICK CHI-MING, S.B.S., J.P.

THE HONOURABLE WU CHI-WAI, M.H.

THE HONOURABLE YIU SI-WING, B.B.S.

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

THE HONOURABLE CHARLES PETER MOK, J.P.

THE HONOURABLE CHAN CHI-CHUEN

THE HONOURABLE CHAN HAN-PAN, J.P.

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

THE HONOURABLE KENNETH LEUNG

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

DR THE HONOURABLE KWOK KA-KI

THE HONOURABLE KWOK WAI-KEUNG, J.P.

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

DR THE HONOURABLE FERNANDO CHEUNG CHIU-HUNG

DR THE HONOURABLE HELENA WONG PIK-WAN

THE HONOURABLE IP KIN-YUEN

DR THE HONOURABLE ELIZABETH QUAT, B.B.S., J.P.

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

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

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

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

THE HONOURABLE CHUNG KWOK-PAN

THE HONOURABLE ALVIN YEUNG

THE HONOURABLE ANDREW WAN SIU-KIN

THE HONOURABLE CHU HOI-DICK

THE HONOURABLE JIMMY NG WING-KA, J.P.

DR THE HONOURABLE JUNIUS HO KWAN-YIU, J.P.

THE HONOURABLE HO KAI-MING

THE HONOURABLE LAM CHEUK-TING

THE HONOURABLE HOLDEN CHOW HO-DING

THE HONOURABLE SHIU KA-FAI

THE HONOURABLE SHIU KA-CHUN

THE HONOURABLE WILSON OR CHONG-SHING, M.H.

THE HONOURABLE YUNG HOI-YAN

DR THE HONOURABLE PIERRE CHAN

THE HONOURABLE CHAN CHUN-YING

THE HONOURABLE TANYA CHAN

THE HONOURABLE CHEUNG KWOK-KWAN, J.P.

THE HONOURABLE LUK CHUNG-HUNG

THE HONOURABLE LAU KWOK-FAN, M.H.

THE HONOURABLE KENNETH LAU IP-KEUNG, B.B.S., M.H., J.P.

DR THE HONOURABLE CHENG CHUNG-TAI

THE HONOURABLE KWONG CHUN-YU

THE HONOURABLE JEREMY TAM MAN-HO

MEMBERS ABSENT:

THE HONOURABLE DENNIS KWOK WING-HANG

THE HONOURABLE HUI CHI-FUNG

PUBLIC OFFICERS ATTENDING:

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

CHIEF SECRETARY FOR ADMINISTRATION

PROF THE HONOURABLE SOPHIA CHAN SIU-CHEE, J.P.
SECRETARY FOR FOOD AND HEALTH

THE HONOURABLE MICHAEL WONG WAI-LUN, J.P.
SECRETARY FOR DEVELOPMENT

CLERKS IN ATTENDANCE:

MS ANITA SIT, ASSISTANT SECRETARY GENERAL

MISS FLORA TAI YIN-PING, ASSISTANT SECRETARY GENERAL

MS DORA WAI, ASSISTANT SECRETARY GENERAL

MR MATTHEW LOO, ASSISTANT SECRETARY GENERAL

GOVERNMENT BILLS**Consideration by Committee of the Whole Council**

CHAIRMAN (in Cantonese): Committee of the whole Council will now continue to consider the Dutiable Commodities (Amendment) Bill 2017. Does any Member wish to speak?

Mr Holden CHOW, please speak.

DUTIABLE COMMODITIES (AMENDMENT) BILL 2017

MR HOLDEN CHOW (in Cantonese): Chairman, yesterday, I already spelled out my views and stance on the amendments. There are two groups of amendments here. The first group of amendments seeks to exempt the persons purely responsible for delivery from the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"), because our target group of regulation is the suppliers who sell liquor and not the delivery persons. In this aspect, since the first group of amendments seeks to exempt the persons purely responsible for delivery instead of the suppliers who sell liquor, I certainly will give my support.

The second group of amendment is the crucial part of this discussion which seeks to allow entry of law enforcement officers into private domestic premises to collect evidence. I already highlighted yesterday that I do not agree to it. The first major reason is that this offence is relatively less serious. If the law enforcement officers from the Government are still allowed entry into private domestic premises to collect evidence, notwithstanding the issuance of a search warrant from a magistrate, I still think that the offence is disproportionate to the power vested in law enforcement officers. Chairman, if the Bill is to deal with serious offences relating to drug trafficking and terrorist activities, it is understandable that law enforcement officers should be entrusted with the power to collect evidence in private domestic premises. But I think that the offence of selling liquor to persons under 18 years of age committed by suppliers is relatively less serious. Hence, it is not only disproportionate but also unnecessary to vest the power to collect evidence inside private domestic premises in law enforcement officers.

Chairman, I would like to voice one more view here. Yesterday, I heard some Members spell out the objective of the Bill, which mainly seeks to regulate the sale of liquor by suppliers. Of course, we all understand the legislative intent of the Bill is to prohibit the sale of liquor to youngsters under 18 years of age by the shops on the street, and it is mainly targeted at the shops on the street. As I already highlighted yesterday, our consideration should focus more on law enforcement against the shops on the street in the future, including whether there is sufficient manpower to carry out inspections, whether undercover operations will be arranged, or whether law enforcement can be effectively carried out by the officers during their time of operation. All these are our questions for the Bureau to answer.

Chairman, the Bill is targeted at the shops on the street, but now the amendments seem to have turned the target of regulation to private domestic premises. Frankly speaking, we know that the Bill is not meant to regulate private domestic premises. The present proposal of extending the power of law enforcement and evidence collection to cover private domestic premises is firstly, too unfair; and secondly, likely to render the Bill out of focus. I hope that the Bureau can understand that the main law enforcement work should focus on regulating the shops on the streets as far as possible.

Yesterday, I heard some colleagues mention about online sales of liquor and I also heard the Bureau say that if the law enforcement power is not extended to cover searches of domestic premises, there may have a lot of buying and selling activities taking place in domestic premises. Chairman, with due respect, I really cannot agree to this point of view. Frankly speaking, when the usage for domestic premises has already been specified in the land lease, basically commercial activities should not be carried out in domestic premises. Even if there are such activities, how critical should the situation be before law enforcement is allowed to step in? Do we need to come up with a conclusion today that many domestic premises will be involved in the sale of liquor tomorrow? Will this happen? Chairman, I am really highly sceptical about this. In my view, under the condition when there is insufficient assessment, if we suddenly extend the power to cover searches of domestic premises through the passage of the second group of amendment today, it will be a hasty move. Before there is such a conclusion and such a situation, I do not support such a sudden move. However, after a period of observation, if we really see that the sale of liquor to youngsters under the age of 18 is extensively and illegally

conducted in private domestic premises in the whole territory, I will agree to the genuine need of extending the power to cover entry and searches of private domestic premises for evidence collection purpose. At that time, I will not raise any opposition.

Nevertheless, Chairman, if we suddenly extend the power of evidence collection to cover searches of private domestic premises through the passage of the second group of amendment today, I would find it highly inappropriate. Therefore, I cannot support the second group of amendment, and I also hope that the Bureau can listen to Members' views. As always, we attach great importance to proportionality. If we forget about proportionality so easily and extend the power of evidence collection to cover searches of private domestic premises, we may do so in respect of other minor offences in the future, and this will not be desirable to this legislative system or the entire regime.

Therefore, Chairman, based on the above mentioned reasons, I cannot support the second group of amendment which seeks to extend the power of evidence collection to cover searches of private domestic premises.

Chairman, I so submit.

MRS REGINA IP (in Cantonese): Chairman, although Members from the New People's Party did not participate in the Bills Committee on Dutiable Commodities (Amendment) Bill 2017 ("the Bill"), we have been paying attention to the controversy over the amendments and have also noticed the arguments raised by Mr YIU Si-wing, Chairman of the Bills Committee, in his speech.

As I understand, during the scrutiny by the Executive Council, the Bill was only intended to regulate public places. But later on, lawyers from the Department of Justice found a very large loophole in the meaning of "public places" which would exclude other points of sales. Therefore, "distribution point" and "domestic premises" are incorporated into the Bill.

Of course, many Members, including Mr Holden CHOW, have clearly explained that it seems unreasonable to allow entry of law enforcement officers into private domestic premises for evidence collection purpose. However, I hold a different view, as my background and past experience in law enforcement have

told me that home searches are allowed under many ordinances, while a search warrant is not even necessary under certain ordinances. Under this Bill, a search warrant issued by a magistrate is required. I think sufficient protection has already been provided and I also believe that the power will not be used casually.

On the other hand, Chairman, I think underage drinking is a problem indeed. Ever since the duty for wine was waived, drinking has become a very fashionable activity in Hong Kong. Chairman, if you go to places like SoHo, Elgin Street, Shelley Street, High Street or the waterfront of West Point, you can see many new types of bars and restaurants. Although they are subject to regulation with a provision in the liquor licence that sale of liquor to persons under the age of 18 is prohibited, they are still patronized by many young people. Hence, there are some loopholes.

From my observation when I studied overseas, underage drinking is especially serious in foreign countries. I have talked to some local residents and they feel that combating underage drinking is highly important. In foreign countries, binge drinking, usually in dormitories, is a common cause of death among university students. Fortunately, comparatively speaking, this situation rarely happens in Hong Kong. It is a matter of course that people enjoy drinking, but excessive drinking or underage drinking is harmful to health. Hence, in order to safeguard young people's lives and our health, I also agree that the Government should regulate the sale of liquor in domestic premises.

Of course, some people say that this is in breach of land lease conditions, and the regulation can start with land lease. However, as we all know, breaches of lease conditions are very common, and can be found in many rental shops in the shopping malls under the Link. But has law enforcement actions be taken by the Government? In most cases, the authorities will only impose an encumbrance on the property and there is no way to take any action. Hence, in my view, the vesting of power in law enforcement officers to collect evidence in a domestic premises with a search warrant issued by a magistrate when there are strong grounds for suspicion is worth supporting.

Therefore, Chairman, the two votes from the New People's Party will be casted in favour of the Bill.

IR DR LO WAI-KWOK (in Cantonese): Chairman, my colleagues from the Business and Professionals Alliance for Hong Kong ("BPA") and I support in principle the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"). The objective of this Bill is quite clear. It aims to amend the Dutiable Commodities Ordinance (Cap. 109) and the Dutiable Commodities (Liquor) Regulations (Cap. 109B) ("the Regulations") so as to realize a few major purposes: first, to restrict the sale of intoxicating liquor from vending machines; second, to prohibit the sale or supply of intoxicating liquor to minors in the course of business; and third, to impose requirements for a prescribed notice and age declaration for the sale or supply of intoxicating liquor. I do not think anybody will raise objection to these major objectives.

As suggested by many Members, the consumption of liquor by young people in Hong Kong is apparently getting more rampant. This perhaps is a social trend which is now extending its influence to junior citizens, a phenomenon we must pay attention to.

Regarding the amendments proposed by the Secretary, the first group is definitional and technical in nature. One of the objectives of the proposed amendments is to specify that a person delivering intoxicating liquor in the course of business for a seller or supplier of the liquor would not be regarded as selling or supplying the liquor concerned, and thus not subject to the new regulatory regime, provided that such person is not employed by the seller or supplier nor involved in the sale or supply of the liquor. I consider this amendment appropriate as the delivery company is only providing a delivery service, it may be clueless about the particulars of the sale or supply of liquor. It would be a contentious issue for the delivery to constitute an offence under such circumstances.

Another rather technical amendment is the replacement of "public place" by "distribution point". It seeks to clearly define the areas where inspectors can exercise their powers. Therefore, my BPA colleagues and I basically support the first group of amendments.

But the second set of amendment has aroused somewhat more controversies in the Chamber in the last two days. As it says here that a new regulation 44A will be added to specify that a magistrate may allow an inspector to collect evidence of an offence under the new Part 5 of the Regulations in a domestic premises by issuing a search warrant, provided that the magistrate meets the specified conditions.

I can imagine when the public are informed of such content, they will certainly respond bluntly, saying that the amendment is causing nuisance to the people. Is the sale of liquor to minors now a frequent occurrence? We do not see such a case. If you aim to rule out such occurrence completely by legal means, I would quote Mr Holden CHOW's words to say that we must consider proportionality.

If a well-intentioned provision is regarded as causing nuisance by the people, the ultimate effect it generates will only defeat its purpose. Therefore, my BPA colleagues and I are not going to support the second set of amendment.

Chairman, as Members of this Council, we certainly understand the vital importance of law-making, which is one of our responsibilities. There is an oft-quoted saying, "a new law will necessarily lead to a new problem". And the second-half of this saying is: "but it is inappropriate not to make law because of the new problem". We have to deliberate prudently when drafting legislation, and especially on the actual social context, in the hope of eliminating problems that might be generated as far as possible. But, as the saying goes, it is inappropriate not to make law because of the new problem. Therefore, we have to strike a fair balance and must take into consideration the issue of proportionality.

Chairman, there are also other oft-quoted sayings which are familiar to us, such as "without the compass and square, [one] could not form squares and circles". This is a quotation from *Li Lou I* by Mencius. Mencius said, "The power of vision of Li Lou, and skill of hand of Gong Shu, without the compass and square, could not form squares and circles. The acute ear of the music-master Kuang, without the pitch-tubes, could not determine correctly the five notes. The principles of Yao and Shun, without a benevolent government, could not secure the tranquil order of the kingdom."¹

I am a professional engineer who understands perfectly well the importance of a compass and a square. Without such basic tools, we can neither form squares nor circles, not to mention building a society. The paramount and also the most authoritative compass and square in our society is of course the constitution of the Country. And Hong Kong also has the Basic Law and other legislation to serve as our compass and square.

¹ Chinese Text Project (J. Legge, Trans.). Retrieved 26 March 2018, from <<https://ctext.org/mengzi/li-lou-i/zh?en=on>>

Indeed, we often heard of the phrase "compass and square" when we were young. Adults reminded us very often that we had to mind the "compass and square", meaning to observe the rules. An important rule was that alcoholic liquor was meant to be consumed by adults and should not be taken by children. Children could drink once they grew up. Teachers at school also told children to observe rules. Therefore, rules are not only laid down by law. The education in school and at home, the conventions in society also form rules for us to follow. Hence, we have to attach importance to education and socialization in society, obey the rules and morals thus generated, on top of making laws. Apart from the few lines that I quoted above, Mencius also said in *Li Lou I* that "[v]irtue alone is not sufficient for the exercise of government; laws alone cannot carry themselves into practice." The regulatory objective of this Bill is appropriate. But then, we also have to follow the wise teaching delivered by our virtuous and knowledgeable ancestors: "laws alone cannot carry themselves into practice". We cannot rely on laws alone, we also need education.

Chairman, we grew up in Hong Kong during the same period. The society at that time was far simpler than the society today and to prohibit the sale of alcoholic liquor to minors by legislation was out of the question. Perhaps this is because most of the minors at that time were children from grass-root families and some had to help out with household chores. As the saying goes, "children from poor families are prodigy home makers." We might go to grocery shops for the family to buy a sack of rice, or to purchase a bottleful of cooking oil or cooking wine with our own bottle. Chairman, both you and I are gourmets. We know that marinated beef goes well with wine. When it comes to cooking pork or white meat, Sichuan peppercorn, star anise and Chinese red wine should be added to water to help bring out the aroma of the meat. Children at that time would help their families to buy daily necessities from time to time. I believe it would be difficult for the then Government to distinguish between those items which could be bought by children and otherwise.

But then, Chairman, the society nowadays has become much more complicated and there are people who try to exploit various loopholes for personal gains. Thus, I do not mean the present day society must live through religiously the form of society or the kind of childhood that I described a moment ago, as the Hong Kong society has become much more complicated. After the enactment of legislation, the importance of education remains paramount and the compliance with law and order as a major principle prevails. Therefore, we cannot agree with people who champion "achieving justice by violating the law" and seek to undermine social order with all sorts of means.

Chairman, I reiterate that my BPA colleagues and I support this Bill, other than the second group of amendment to it. Chairman, I so submit.

MR WONG TING-KWONG (in Cantonese): Chairman, I think Members should support the proposals under the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") to regulate the sale and supply of intoxicating liquor in the course of business. But I think there is room for further discussion on the second group of amendment proposed by the Bureau, meaning the amendment under clause 7.

With social advancement these days, major changes have occurred to the mode of sale. In my childhood, there was no such thing as the Internet or e-trade. The mode of sale has changed drastically at present, in the sense that one may even do online shopping anytime at home very conveniently. But we need to consider the possibility of buying alcohol online among underage youngsters, or those aged below 18. Of course, nothing is absolute. Underage youngsters may buy and consume alcohol. But we need to think about these questions: When will the authorities see the need of collecting evidence in residential units according to the arrangement of the amendment? Is it necessary to do so? Can it stand to reason?

Let me first talk about collection of wine. I have kept a few bottles of wine at home, and I do not know if I will offer them for sale. If I do so, I will definitely break the law as no commercial transactions are allowed in residential units. Even if I collect wine, I will not break the law as I have not yet decided on what to do with them. Besides, will minors break the law if they consume alcohol at home? Even if they do so, they will not break the law, and we cannot stop them from drinking either. However, we should educate them on the hazards of drinking. In that case, when will they break the law? When they buy alcohol. A minor will definitely break the law if he buys alcohol, and this is also the case with those who sell alcohol to minors.

According to the amendment under clause 7, under what circumstances will a law-breaker be immediately arrested? In contrast to the possession of dangerous drugs or other forbidden items, as long as law enforcement officers find the relevant items in the unit, they may arrest the person involved and cordon off the unit. But they cannot do so if they merely find alcohol in the unit because storing liquor in a unit is not against the law. In that case, the necessity and law enforcement effect of conducting an in-house search are doubtful, and it

will also cause disturbance to people. When we enact legislation, our most important consideration is the way and feasibility of law enforcement.

At a meeting of the Bills Committee, the Bureau said that it would be possible to find transaction records during an in-house search. May I ask about the significance of transaction records? Will such transaction records contain the name, address and age of alcohol buyers? It is impossible that such transaction records will contain information as comprehensive as this. What is the point of seizing transaction records without such information?

Some say that the relevant information will be available if a buyer settles the bill with a credit card. I am baffled because as far as I know, people aged below 18 are not eligible for credit cards. If a buyer can settle the bill with a credit card, this indicates that he has already reached 18 years of age. In that case, it will be lawful to buy alcohol. Certainly, it will be another matter if the transaction takes place in a residential unit. But this is outside the scope of the present amendments. The authorities have also stated that perhaps, they may be able to find some credit card transaction records. But I likewise find their arguments perplexing because I do not think they will be of any use. What is the purpose of collecting evidence in residential units? What is the effect of so doing? How can so doing facilitate law enforcement? What are the effects?

During the entire legislative process, DAB and I have been very prudent, serious and detail-minded, seeking to give consideration based on the objective reality and actual operation as far as possible. Certainly, I understand that the Administration aims to facilitate law enforcement and better implement the law. But in my view, "better implement" should be put in quotation marks. What is meant by "better"? The authorities should not take enforcement action without sufficient grounds.

Just now, many Members (including Ir Dr LO Wai-kwok) talked about handling housework with the help of their children, adding that it would be utterly impossible to enforce the law stringently. If society can provide children with good education and teach them to help with housework, this will be very good. It is honestly inconceivable that they will violate the law because of this. We should encourage our children to help with housework and do things for their parents and elderly people as this is noble moral conduct. This is likewise valuable conduct among children.

In my view, the amendments under clause 7 run counter to the objective and will cause negative and undesirable impact in various social aspects. Therefore, I support the Bill. But I think that Members need to seriously consider the amendments under clause 7. So far, I have still held an opposition stance, and I also believe that the Bureau has likewise realized the relevant problems. Otherwise, it will not have divided the amendments into two groups.

I hope the Bureau can accede to Members' demand and cultivate a good education and social environment while taking account of social prosperity and stability.

I so submit. Thank you, Chairman.

MR STEVEN HO (in Cantonese): Chairman, having listened to the earlier speeches of Mr WONG Ting-kwong, Ir Dr LO Wai-kwok and Mr Holden CHOW, I also get something in mind. When I was small, I received education in the United Kingdom, and I once sold beer as a bartender at the time. According to overseas legislation on the sale of alcohol, alcohol shelves in places such as supermarkets would be fenced off at 11:00 pm every night to bar customers from buying alcohol. Even though I was a bartender at the time, I must uncup the beer bottle for customers before they could take the beer away after 11:00 pm every night. They must drink the beer right away and were not allowed to take away the beer bottle with the lid still on as this was against the law.

Over 10 years has passed since I returned to Hong Kong. I think it is a bit late for the Government to present the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") now. When I lived in a public housing estate in my childhood—I now want to talk about cigarettes instead of alcohol—an uncle said to me, "Son, buy a packet of cigarettes from the grocery shop for me!" People can buy cigarettes or alcohol on the streets without much difficulty. Actually, this will affect the development of children. If the SAR Government wants to deal with the problem of smoking and drinking among children aged below 18, it must begin with public education as a matter of priority. Even though shops may refuse to sell alcohol to children, they may still "influence" them by many other means. I know some parents who have let their children have a taste of alcohol when they are still small. As time goes by, if children develop a growing liking for alcohol, they may try to find various ways to buy the alcohol they want even if the Government enacts the Bill or clause 7 is passed.

As for clause 7, many Members asked just now whether the Food and Environmental Hygiene Department ("FEHD") should be empowered to collect evidence in residential units upon application for a search warrant. We were more prudent when scrutinizing the Bill and envisaged some possible scenarios. We once imagined the actions that could be taken by FEHD officers upon entering a residential unit involved in a case with a search warrant. I listened to the explanations given by various sides, and I was told that they might check identity cards, count the number of liquor products, and conduct interrogation. But they—probably—could not take any arrest action. From this, we can see that the effects are not quite so significant. Therefore, I initially thought that it would not cause much difference whether they were empowered or not.

"Brother Elephant" raised a question just now about whether they could find any computer records on credit card transactions. But children aged below 18 are ineligible for credit cards. Then, another question pops up in my mind: Is the Government so visionary? I ask this question because Mr CHAN Han-pan pointed out yesterday that when patronizing a "Dai Pai Dong", he was asked by the owner to pay at an adjacent stall and then get a bottle of beer himself as a means of circumventing his lack of a liquor licence. Has the e-payment era arrived? "I am not allowed to sell alcohol in my shop. Please go to that shop and scan my QR code." Can one buy alcohol this way? Can the relevant records be admitted as corroborative evidence? Is it true to say that the Government is really so visionary? But the entire Bill shows that the Government seems to lack such awareness.

For these reasons, I do not understand why the Government proposes this amendment. Perhaps, the Government wants to obtain an additional power for future use. But when the Legislative Council scrutinizes a bill which seeks to empower a certain government department or official to do something, we are very prudent as we want to prevent any abuse of power.

Even if the amendment is passed, the Government will still be required to apply for a search warrant from the court. However, Mr Holden CHOW presented some figures, saying that 99.99% of all applications would be approved. In that case, is it true to say that the mechanism exists in name only? But our review of information shows that the situation is not always like this. The Government must have obtained sufficient evidence before applying for a search warrant from the court. The Government must do enough in this respect. I am not quite so familiar with the operation of the Court. But I believe the

Government needs to offer a comprehensive account on the application procedure for a search warrant, the production of evidence, and also the criteria and threshold adopted by Judges in vetting and approving applications, so as to enable us to understand the details on the Government's enforcement work in this regard.

First, if the Government enacts the Bill not because it foresees the inception of the e-payment era, but purely because it wants to obtain an additional power, or if the Government refuses to give us a clear explanation for reasons unknown to us, we in DAB or other Members definitely cannot confer this power on the Government. But all may be due merely to the Government's failure to express itself clearly. So, I do not think the time is ripe today. I hope that in the future or within some time—perhaps one or two years—after the passage of the Bill, the SAR Government can conduct a review to see if anyone has manipulated the loophole in law by using payment methods such as WeChat Pay, Alipay, and so on. At present, there are more than 10 such payment methods in Hong Kong, and they have presented an opportunity for some to manipulate the loophole in law. The Government must carefully review such payment methods to see if they have aroused any ulterior thoughts among businessmen.

Mr WONG Ting-kwong often discusses with me issues relating to the business sector. Businessmen are actually very smart. Even though the laws of Hong Kong are very comprehensive with a solid basis, businessmen will always be able to find some grey areas and manipulate them somehow. The situation is like the time when I worked as a bartender back then. I would say, "Do you want to buy a bottle of beer and drink it at home? But I must uncap the bottle first." This is one way. Mr CHAN Han-pan patronized a "Dai Pai Dong" yesterday. As the "Dai Pai Dong" did not possess a liquor licence, he was asked by the owner to buy beer at an adjacent grocery shop and bring it back to the "Dai Pai Dong" himself after removing the lid. This is another possible way. All such changes are beyond our imagination in the Chamber today. You may think that you can envisage all such scenarios. But there are actually things that can be proven to be true or otherwise only through actual practice.

While I think that this amendment will not be agreed by a majority of the Members present, this does not mean that the SAR Government's original intention of obtaining this power through the Bill is wrong. The reason why the amendment is negated may merely be that the Government's grounds are not sufficient enough. I hope that the Government can put forth more sufficient grounds in the future when introducing the relevant amendments to the

Legislative Council again. I have no intention to criticize the Government for abusing power. I purely do not want to see that this minor matter of selling alcohol to people aged below 18 will open a door for the SAR Government. Certainly, I hope the SAR Government can understand through this opportunity that Members' genuine concern actually centres on the people.

My speech is based on the angle of an ordinary person, and I hope that the SAR Government can enact legislation prudently.

Chairman, I so submit.

MR CHAN CHI-CHUEN (in Cantonese): Chairman, this debate session involves two groups of amendments under two subjects. The subject of the first group of amendments concerns the criminal liabilities of persons responsible for delivering liquor products to purchasers under the age of 18 in the remote distribution. I would like to speak more on this.

The Government now proposes in the amendments that a person responsible for delivering liquor products will be free of criminal liability if the person is not employed directly by a seller of liquor products. Employees of courier companies, for example, will not be held responsible. I of course support this point because I think the extension of the scope of criminal liability to cover deliverers of liquor products is actually difficult to implement. I hope the Government can clearly explain how this can be enforced later. Leaving aside the advances in technology, we just look at the traditional way of ordering food. Chairman, if I call a restaurant to make a takeaway order and have a set meal with two bottles of beer. As the takeaway includes two bottles of beer, whether the restaurant which takes the order is required to ask the caller if he reaches the age of 18, as what online ordering has to do. The caller then has to say yes to the question. Actually, has the authorities ever issued relevant guidelines to restaurants? Given that takeaway ordering is also a kind of remote distribution, are there any guidelines available for restaurants to follow?

If the takeaway order is made online, the input data can serve as evidence. Similarly, if it is a call-in takeaway order, should the restaurant record the phone call? The next step is the delivery. First of all, I assume the delivery person is directly employed by the restaurant. For a takeaway order with two bottles of beer, is it the responsibility of the deliverer to ask the caller or recipient to

provide an identity card to verify that he reaches the age of 18 or above. In case he is underage, should the food order be cancelled and the foods returned to the restaurant? Does the deliverer have to shoulder this responsibility? In this respect, has the Government ever issued guidelines to restaurants on the takeaway of liquor products, requesting their deliverers to check and verify that the recipients reach the age of 18 or above? If not, will the Government do so? Or should the Government simply ban the takeaway of liquor products to relieve deliverers from the verification responsibility? Chairman, as you know, sometimes, deliverers may not be able to come face to face with recipients. The recipients may pay the \$100 or \$50 bills through the door gap, and the deliverers may then put the foods outside the door or at the reception area. No verification process can be done in this case. How can the Bill handle these situations?

I come back to the point which I concern most. There are mobile apps providing gourmet food delivery service. I am not sure if Mr Tommy CHEUNG has studied this trend. The apps enable users to place orders with nearby eateries within certain kilometres in distance. It is the providers of the mobile apps which place orders for and deliver foods to the clients. The eateries simply do not care who their clients are. As the apps providers are not direct employees of the eateries, they are free from the liability. Am I right? I do not mean to say the Government should also regulate providers of these gourmet food delivery apps in the next legislative exercise. This is overkill. The original intent of the Bill is to prohibit convenience stores from selling liquor products to people under the age of 18. So, should we also need to regulate these intermediaries? If not, it will be lawful for people under the age of 18 to buy liquor through the gourmet food delivery apps because these companies are not directly employed by liquor sellers and are thus free from liability under the law.

Some Members have asked if the possession of credit cards can help rule out the underage purchase of liquor. But I think it is not practicable. First, minors are also eligible for subsidiary cards. Second, there is no age requirement for holders of debit cards who can use their cards after adding money to them. Third and the simplest way is to deposit money into the sellers' bank accounts and provide bank-in slips on delivery, or just cash on delivery. As purchasers are initially not required to provide information on their identity cards when they place the orders, it is particularly difficult to perform the verification in remote distribution. In remote distribution, the selling is not done face to face. Do you expect sellers to open cameras to see if the purchasers appear to attain the age of 18, or they just look like students at their age of 15 or 16? Let me come

back to the main principle. It is difficult for deliverers to bear this responsibility. It is equally difficult for sellers to teach their deliverers how to conduct the verification. Should the sellers ask the deliverers to walk away if they cannot see the purchasers face to face or if the recipients refuse to provide identity cards?

Nevertheless, I still support this group of amendments. Despite the not thoroughly drafted amendments will cause operation and implementation problems, it is impossible for me not to give my support because the amendments introduce a provision to exempt courier companies solely responsible for delivery from the liability. In respect of another group of amendments which empower an inspector to search domestic premises, one or two Members have indicated their support. But I find their justifications very inadequate. It is perfectly correct for Mrs Regina IP to say that many ordinances permit the domestic premises search and many government departments can do so. Some searches even do not require court approval. But we will need to take into account the proportionality and the gravity of the offences as well.

The Bill concerns the selling of liquor to people under the age of 18. Mr Tommy CHEUNG has said correctly that the selling of liquor in domestic premise is itself an offence. Law enforcement officers are actually empowered under other ordinances to enter and search the premises for such an offence. It is thus not necessary to include the premises search provision in the Bill. This provision fails to meet either the proportionality or the necessity. As regard its feasibility, what law enforcement officers can do after entering the premises? Unless law enforcement officers witness any transaction process or seize transaction records in the premises, it does not mean anything even though they find liquor, money, and even, as I assume, children or minors under the age of 18 when they enter the premise. Actually, if there are records of transactions in the premises, law enforcement officers can simply charge the seller for selling liquor without a licence in domestic premises. I assume that the seller also has an account book. Will law enforcement officers call the purchasers in the account book one by one to check if they attain the age of 18 and then further prosecute the seller for selling liquor to people under the age of 18? I do not think law enforcement officers will do so in the actual implementation.

Hence, is it necessary and feasible to give law enforcement officers this power? Mr Steven HO says he once thought that the empowerment was no big deal because the damage or the irreversible damage it might cause was

insignificant. In this respect, I call on Members not to suspect the motive or any other intentions of Mr Holden CHOW, and I particularly wish to ask democratic Members not to be sceptical, though they are not in the Chamber now. We only need to look at the reasons. We often say whether it is police officers, inspectors, or any other law enforcement officers, we should only give them the powers sufficient for them to discharge their duties. We should not confer on them excessive powers. Nor should we think their holding of excessive powers is not a matter of concern as they will exercise the powers in the light of individual circumstances while their powers are also checked by the court. The fact is law enforcement officers can address the offence of selling liquor in domestic premises even though they are not empowered with the domestic premises search.

Honestly, if I tip law enforcement officers off about the selling of liquor to a 17-year-old guy in the domestic premises at Flat C, 18/F, they will rather charge the suspect the offence of selling liquor at domestic premises than selling liquor to people under the age of 18. Hence, it is not necessary to empower inspectors to enter and search domestic premises. They already have sufficient powers to tackle the unlawful selling of liquor at domestic premises. Therefore, I call on Members not to support the second group of amendment proposed by the Government. I so submit.

MR TOMMY CHEUNG (in Cantonese): Chairman, I want to speak again. Mr CHAN Chi-chuen asks if I am aware of the problem associated with couriers. Actually, I have recently come across a liquor licence case, which is utterly ridiculous. As a licensing condition, restaurants have to make sure that patrons drink the liquor beverages supplied by them within the liquor-licensed premise area. In other words, if I order a glass of wine in a restaurant, I am required under the law to drink it inside the premises. Outside consumption is unlawful, though it is the licence holder of the restaurant, not me, liable for the non-compliance. Hence, it is under the law that restaurants have to ban their patrons from outside consumption of alcohol beverages. Members have to understand this.

It is the courier service that gives rise to the ridiculous case I have dealt with recently. The courier company received a takeaway order through its website for a pineapple bun and a bottle of beer at a "Yan Yan Restaurant". The courier then went to the restaurant to pick up the food for delivery to the

purchaser. The liquor licence holder of the restaurant, however, was later prosecuted for supplying takeaway canned or bottles alcohol in contravention with the licensing condition which requires the consumption of alcohol beverages inside the restaurant premises. The Police base the prosecution on the outside premises consumption of alcohol. I of course tell the liquor licence holder that he definitely has to lodge an appeal. I do not think the prosecution meets the legislative intent of the liquor licence ordinance.

Chairman, I do not know if the Food and Health Bureau or the Food and Environmental Hygiene Department will have adequate inspectors to carry out the inspection. There are several thousand liquor licences in the catering industry. The inspection work is currently performed by the Police, including police officers and auxiliary police constables. They inspect liquor-licensed restaurants across the territory to check their compliance with the licensing conditions, though it is not uncommon for restaurants to oppose the non-compliance charges. Regarding the enforcement actions against the offence of selling liquor without a licence, we can frequently come across newspaper reports of the Police inspecting upstairs bars or discos. The root of the problem is that the over-stringent licensing requirements discourage restaurant owners from applying for liquor licences. This in turn prompts the Police to increase the frequency of inspection. Indeed, these restaurants openly supply liquor beverages, and are thus exposed to the Police's undercover operations. The Police can simply send one of their officers to an upstairs restaurant. When the restaurant supplies liquor beverage to the police officer, he can question if the restaurant is licensed to do so. If not, the Police can seize everything in the upstairs restaurant. Not only will they seize all liquor, they will also take away refrigerators, ice buckets, refrigerator for storing ice pieces, and even the audio equipment. Still, we can say the action is backed by evidence.

Some Members have said similar provisions are also found in other ordinances. Of course, if you discover a shop is running businesses associated with vice, gambling and drugs, such as engaging in illegal gambling and illegal charging of commissions, you really need to apply for a search warrant. If the shop owner refuses to open the door under the search warrant, you can break into the premises where you may find a crowd of gamblers gathering around a gamble table and there is dice cup and other gambling equipment. However, this does not mean that the Government can directly copy this entire provision to this Bill without first giving it a glance.

I often say whether it is the Police or other government departments, they are tempted to use the provisions regulating vice, gambling and drugs as the template for the drafting of other regulations, regardless whether it is about the liquor licence regulation or the banning of workplace smoking I have spoken on yesterday. Today's debate, however, is about the banning of liquor sale to minors under the age of 18. Chairman, can you imagine how can law enforcement officers institute a prosecution after the domestic premise search? In fact, it is not difficult for law enforcement agencies to apply for search warrants. As far as they sincerely believe that there is a large quantity of liquor in a residential flat for sale to people under the age of 18, the court is likely to issue them with a search warrant. However, what is the meaning of granting them the search warrant if law enforcement officers can only see a couple eating with their minor child inside when they break into the domestic premises? In the premises, there is a half-bottle of wine as the couple drink wine along with the meal but the minor child does not. How much evidence can they collect in the exercise that is useful to the prosecution work? It will be useful only if law enforcement officers witness the liquor making process which involves a minor when they break into the domestic premises. But in doing so, they will have to carry out an undercover operation. The point is if the operation itself is successful and the Police have already collected sufficient evidence, what is the use of the search warrant application? What can the law enforcement officers do when they enter the premise with the search warrant but find no one inside? Prosecution under other ordinances is still possible if they find a large quantity of duty-not-paid liquor in the premises. But this does not necessitate the inclusion of the relevant provision into the Bill.

Likewise, there are also problems with the regulation of cigarette packet. Today, I cannot see any colleagues from the Democratic Party delivering their speeches. I heard that they will support the relevant regulation, and I am keen to listen to their brilliant arguments. They think it is so suspicious for us to have a cigarette packet in the pocket that police officers can ... they support empowering police officers to search us. If I carry heroin or prohibited goods, police officers may find me suspicious and search me. This is perfectly acceptable. But in what sense I have to be searched only because I have a cigarette packet with me? It is lawful to carry cigarette packets in Hong Kong, and the SAR Government has levied cigarette duty. So, why my possession of a cigarette packet will justify a search by police officers? If you want to search me, you can say I look as "gross" as a heroin addict. But is it necessary to search me for my possession of a cigarette packet? This is utterly unnecessary. So, why the Government has to include this provision in the ordinance which bans workplace smoking?

I can tell you that in many cases, the government departments ... it should be the Department of Justice ("DoJ") which is responsible for the drafting of legislation. However, what DoJ has done is to copy a bit from one ordinance and a bit from another in order to make a "chop suey". Some Members point to the existence of similar provisions in many ordinances as the justification for introducing the same to this Bill. To me, I have good reasons to take up the gate-keeping role and be the goalkeeper. There are similar provisions in other ordinances does not necessarily mean that this very provision can be incorporated into whatever ordinances in the future. Chairman, this approach is unacceptable to me.

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

DR ELIZABETH QUAT (in Cantonese): Chairman, just like many Members, I also support the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"). We know that alcohol consumption is closely associated with cancers, cardiovascular diseases and diabetes. Moreover, it profoundly affects the developing brain in adolescence.

Alcohol is like a double-edged sword. It is true that the number of wine drinkers has increased drastically since the introduction of wine duty exemption in Hong Kong as people consider wine-drinking to be something of a vogue. I have also been in contact with a lot of young people. They used to drink beer secretly in the past. Nowadays, however, young people begin to have their first taste of wine at an early age and so alcohol consumption is pretty common among the younger generation. Yet, we understand that drinking liquor will profoundly affect the brain development, memory, nervous system as well as self-control ability of persons under the age of 18 years (i.e. the minors).

I am acutely aware of the issues associated with wine-drinking and the tragedies resulted therefrom. Once I went to Croatia with friends from the international IT community, among which was a young and promising entrepreneur from Brazil, whose company had just made a considerable profit back then. We spent time together the day before, chatting, drinking wine, riding horses and talking about the major trends of future technological development. Then came a night on which we were probably getting very excited drinking wine together that some of us had become so inebriated. Under

the influence of alcohol, this Brazilian friend of mine suddenly told us that he wanted to jump down into the water to swim when we reached the seaside. He did jump into the sea before we could stop him, but it turned out that he sustained severe injuries to his cervical vertebrae since he had jumped into the shallow water. Regardless that he was immediately rushed to hospital for emergency medical treatment, he became quadriplegic (i.e. having no ability to move any part of the body below the neck) since then and has yet to fully recover so far. This is a true experience of mine. You see, it happened all out of the blue that such a promising young man, who went horse-riding and chatted with us the day before, fell from heaven to hell the next day. At present, these friends and I are still in touch with him via the Internet. He still has a heart full of zeal despite the bodily paralysis he is suffering and is committed to exploring how to facilitate communication between paralysed patients and others by making use of technologies. Yet, this is a very sad story after all, which is also a little story I had personally experienced.

The above story serves to prove that we really should beware of the possible harm caused by alcohol, which will reduce people's self-control ability. We have also heard of countless such tragedies precisely because people will lose sobriety under the influence of alcohol, and drink driving will lead to the occurrence of many traffic accidents. If young people start drinking liquor at an earlier age, their overall development, self-discipline and self-control ability will be more profoundly affected. Therefore, the World Health Organization has been calling on all countries around the globe since an earlier stage to prohibit young people under the age of 18 years from alcohol consumption by means of legislation.

Hong Kong is a very strange place. While many countries have already enacted laws to prohibit young people from alcohol consumption, adolescents can purchase liquor at any time anywhere in Hong Kong for consumption (e.g. convenience stores and supermarkets) and even through online shopping except from bars and restaurants which must apply for liquor licences in order to sell alcohol to adolescents. Actually, the authorities should have started dealing with this issue earlier, and I am supportive of the Government's act of seeking to enact law in connection with this today because I understand that continuing the practice in which the retail industry refrains from selling intoxicating liquor to minors on a voluntary basis can never serve our such purpose. Early legislation can help plug the loophole early for the overall well-being of society to the effect that both online and retail stores cannot sell liquor to adolescents without being regulated.

However, Chairman, I think what is more important is that the Bill helps arouse public concerns so that more parents become aware of the possible harm that can be done to adolescents ...

CHAIRMAN (in Cantonese): The Committee is now debating on the amendment to clause 7, Dr Elizabeth QUAT. Please come back to the question under debate.

DR ELIZABETH QUAT (in Cantonese): I understand, Chairman, and next I will speak on clause 7 of the Bill. I hope that the Government will step up its effort in publicity and public education after the Bill is passed today and becomes an ordinance. While calling upon adolescents not to drink liquor, the Government should also urge parents not to allow their children (in particular teenagers and children) to get in touch with any alcoholic drinks.

I trust that no one will raise any objection against the first part of the proposed amendments to the Bill. In fact, couriers or delivery workers will never be at ease if they are not exempted from the liability concerned. As ordinary wage-earners are only responsible for delivering goods, they may not know what kind of goods they are delivering, nor do they have any idea about the age of the recipient. Therefore, they should be exempted as it is not quite possible for them to ask the recipient to produce his identity card.

However, the Government proposed in the second part of the amendment that inspectors of the Food and Environmental Hygiene Department ("FEHD") be authorized to enter and search a premise for seizing anything likely to be evidence. We really cannot figure out why such an amendment is proposed and the Government has indeed failed to convince me and the political party to which I belong to give a nod to this amendment because it cannot offer sufficient justifications. The amendment involves two major questions: First, is it necessary? Second, any person who sells alcoholic beverages to a minor in a domestic premise is already guilty of an offence under other ordinances. The enforcement officers should not have any difficulty applying for a search warrant in order to search the premise in case someone dares to openly sell alcoholic beverages in a domestic premise and the case is reported then.

Let us consider this from a different perspective: Can it really be that easy for the FEHD inspectors to seize evidence and arrest the offenders even if they are authorized to enter and search the domestic premise against someone who really does sell alcoholic beverages to minors inside a domestic premise? Actually, it will be rather difficult. As a lot of Members have already mentioned before, it is perfectly normal to that both alcoholic beverages and minors are present in the same domestic premise. Then, given this fact, how should the FEHD inspectors conduct the search in order to gather evidence that can prove someone does have sold alcoholic beverages to minors inside that very premise? This will only be possible when the FEHD inspectors can successfully effect arrests in the course of business. Unless they carry out covert operations, there will be no way for them to arrest the offenders in the course of business. Yet, the FEHD inspectors should have entered the premise already by then if covert operations are being carried out. Hence, I really cannot understand why the Government has to propose such an amendment to give the FEHD officers the authority to enter and search the premise for seizing evidence.

On the contrary, from the public's point of view, entering and searching a premise for seizing evidence is a very serious move which should never be made so lightly unless it is absolutely necessary to do so. I think the amendment will probably arouse public concerns over its necessity. Moreover, big problems may be involved in enforcement. But why did the Government still propose it given the above? And so, I hope the Government will study the matter all over again to consider carefully if the amendment should be moved. This amendment will not have my support today, but we may hold further discussions at the Council after the Government has conducted further studies later on and provides sufficient justifications or any practical examples to show that the enforcement officers will not be able to carry out relevant law enforcement actions without being authorized to do so as proposed in this amendment.

Chairman, I opine that the Government should, both during this period and after legislation, step up its effort in publicity and public education as I still occasionally come across grown-ups at restaurants for the time being who still think it okay to let children drink a mouthful of wine and thus allow their children to have a taste of wine. This is still very common in local society probably because a lot of adults still do not know the possible harm that alcohol may do and the impacts alcohol may have on children and adolescents during their formative years. This is similar to the case of gambling since we are facing the

same problem in our attempt to ban gambling for a lot of adults are still unaware that letting children take their places when playing mahjong or poker during childhood can have serious consequences. They think that it is no big deal at all and is only a kind of game for the children. Yet, this may have served to arouse adolescents' interest in gambling or caused them to become obsessed with it. We understand that people will become addictive to certain things, including gambling, spirits, browsing the Internet and even pornography. This may be due to a person's evasive attitude or a particular kind of feeling that he had experienced during childhood. Therefore, one will naturally try to regain such a feeling in order to evade reality when under huge psychological stress. Given that both spirits and gambling can excite people so greatly that they will feel "high" and get carried away, they will easily become addictive to this specific kind of feeling in fact.

It is often heard in Hong Kong that one has to, regardless of what it is, get rid of any form of addition, but the Government mainly focuses on anti-narcotics campaign only since drugs will ruin a person's entire life. The Government has put in much effort in publicity and public education, calling adolescents not to take drugs. However, it has yet to step up its effort in prohibiting them from alcohol consumption. It is for this reason that alcohol consumption is common among adolescents and people are unaware of the equally profound impacts alcohol may have on adolescents. Thus, I hope the Government can step up its effort in publicity and public education, in particular calling on parents to keep an eye on their teenage children as they grow up and educate them as early as possible about the possible harm that may be caused by alcohol consumption.

Actually, similar to the case of gambling, it is the collective responsibility of the entire society, the Government, parents and adults alike to urge adolescents not to drink liquor. The Government should not only call on young people not to take drugs. It should also urge them neither to drink liquor nor gamble as well.

I so submit, Chairman.

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

MR WILSON OR (in Cantonese): Chairman, the Secretary has tabled the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") to the Legislative Council for Members' endorsement. Chairman, I wish to tell the Secretary that I have no objection to the first group of amendments, but I have reservation about the amendment that allows an inspector to enter a domestic premises with a search warrant to collect evidence.

Many Members have pointed out and also the Secretary has said yesterday that if inspectors of the Department of Health are not entitled to apply for search warrants, outlaws will be encouraged to sell liquor to minors and domestic premises will become a black spot or breeding ground for liquor selling, and this will affect law enforcement. However, I doubt what the inspector can achieve in the process even if he can obtain a search warrant to enter a domestic premises. I believe this is what Members have been trying to remind the Bureau in the debate in these two days, but the Bureau has yet to clarify what it will do to handle this issue.

My opinion is that if a search warrant is required to enter a domestic premises to search for any suspected illegal activities but the search fails to find any clear evidence in the end, this will only complicate the matter; and as some Member has said, this may infringe on personal privacy. That is why I cannot understand the logic of this action. I heard some Member ask the Government just now of the criteria to define a suspect who is caught red-handed and arrest can be made, and how to define the interactive relationship at the scene where there will be adults and minors involving liquor. I very much hope that the Secretary can share some thoughts with us later.

Moreover, I also wish to cite an example for the Secretary to bring home a point. It is the Tobacco Control Office ("TCO") that we have mentioned a lot. To be fair, I must point out that we often see TCO officers doing law enforcement in the community, but the smokers are often being alerted and gone, and the smoke dissipated as well, before the TCO officer arrives. This also applies to the case of conducting searches in domestic premises with search warrants. How will the authorities collect evidence? To date, I still have many queries on the enforcement I cannot solve and these difficulties in enforcement and operation will arouse criticism from different walks of life in society.

I wish to tell the Secretary that she has to be very prudent in handling the Bill. In fact, many people are watching the broadcast of this Council meeting now. They want to know whether Members have relayed their concerns about

the amendment on search warrants, which will enable inspectors to enter domestic premises. I received some phone calls from local residents last night, expressing their support that the Government should properly take forward the first group of amendments to prohibit minors from buying liquor, but also their concerns about the implementation of the second group of amendment on conducting searches in domestic premises and monitoring remote transaction. Mr WONG Ting-kwong said just now that there must be witnesses and material evidence. Material evidence is even more difficult to find. Will outlaws mark down their illegal liquor transactions? This is what many people query.

Many policies of the Government are often incomprehensible to or misunderstood by the public, whether during policy discussion at the Legislative Council or actually implementation. To be fair, I think public education is more than necessary. Not only this Bill but also many new measures launched by the Government have met with strong criticism. I think the Secretary truly needs to make an effort to conduct public education and promotion. This is helpful. Do not think that broadcasting TV Announcements in the Public Interests or launching promotion products are wasteful or ineffective. I often stress that imperceptible influence can help the Government in launching policies. I notice that the Bureau has made a great effort in handling this problem. This deserves our positive comments and applause.

However, if public concern on this part of the amendments cannot be addressed, I am afraid I cannot support the Legislative Council to pass these amendments. Besides, there is no valid justification for me to do so. In the future, I hope the Secretary will promise us that apart from stepping up publicity, she will also lay down specific procedures or measures to convince us that collecting evidence in domestic premises is an effective means, and obtaining search warrants is not a waste of time of the court and the magistrate, and that there is no complicated administrative procedures, and that efforts in searching domestic premises will not be futile. I hope the Secretary will later take this point into careful consideration. Moreover, some Member just now raised a question on witnesses and material evidence. I hope the Secretary will later tell us how she will address these public concerns and questions on enforcement.

Chairman, selling liquor to minors has always been a common concern in society. I can identify with this concern. The Government is duty-bound to properly prevent this problem. I appreciate the voluntary efforts made by the sector over the years, which I think has brought some result. But as to how

effective the efforts have been, opinions differ. The people I have frequent contact with, whether young people or parents and children I get in touch with in the community, all hope that the authorities can tell them how promotion and publicity will be conducted; otherwise, it is hard for them to pledge their support to the Bill. Hence, I wish to take this opportunity today to tell the Secretary that she really needs to do more publicity and promotion in the future, so as to dispel the impression that the Government is doing it for show and the efforts are futile or it is doing a disservice. I hope the Secretary can later respond to this point as well.

Chairman, I support the first group of amendments to the Bill, but if there are not sufficient justification and clear data to support the second group of amendment, I am afraid members of the Democratic Alliance for the Betterment and Progress of Hong Kong and I may not support them.

Chairman, I so submit.

MR LEUNG CHE-CHEUNG (in Cantonese): Regarding this Dutiable Commodities (Amendment) Bill 2017, I hold that some of the government amendments are worth our discussion, especially considering that Mr Wilson OR already said just now that the Democratic Alliance for the Betterment and Progress of Hong Kong would support the first group of amendments but not the second group of amendment on entering domestic premises to conduct searches.

The Government now wishes to implement liquor control, prohibiting the sale of alcoholic beverages to people under 18, and this practice will be dramatically different from the existing practice under the ordinance. The ordinance now does not regulate the places where liquor is sold but only the places where liquor is drunk. The places of liquor sale are left unregulated. The Government now wishes to extend the scope of the ordinance to cover the process of liquor sales.

As a matter of fact, putting this into regulation has aroused some controversies, especially how liquor sellers can prove that liquor purchasers are adults. Although I was not a member of the Bills Committee, I note from the relevant papers that members of the Bills Committee have different opinions about this. I have sympathy for shops selling alcoholic beverages because they will suffer losses due to this regulation.

However, according to the World Health Organization ("WHO"), alcoholic beverages put our health at risk. They are more or less like carcinogens. But if the consequences are so serious, when the Government legislated on liquor, why it did not follow the example of cigarettes, which requires adding the warning "smoking is hazardous to health" on cigarette packets, and put "drinking liquor is hazardous to health" on alcoholic beverages. The Government explains that WHO only identifies alcoholic beverages as something that will affect the brain development of young people, harm their memory and nervous system and undermine their self-control ability. These are serious impacts. But the Government seems to think that drinking liquor is alright as long as you are adults.

I do not know if the Chairman is fond of drinking liquor or not. I have no interest in drinking liquor and I am not good at drinking it. I am not sure if liquor lovers have bad health because of this reason, but I believe Mr Tommy CHEUNG will definitely disagree. His sector has to sell liquor; otherwise, their business will be affected. I hold that the ordinance on regulating the sale of alcoholic beverages to adults are controversial, but on the whole, I agree that alcoholic beverages have all along been regulated, just that the Government now wants to extend the scope of regulation to places where alcoholic beverages are sold, and this is consistent with the spirit of the ordinance when it was laid down by the Government.

Second, how are we going to prevent minors from committing the offence inadvertently under the new scope of regulation? Let me cite an example. I note from my constituency that the places where people drink liquor are often separated from the places where liquor is sold. When police officers patrol these places, they are often unable to do anything. If I buy a bottle of wine at a 24-hour convenience store and drink it in a shop, police officers cannot prosecute the shop because there is no liquor stored at the shop. Alcoholic beverages can then bypass the regulation of the law.

As a matter of fact, society has been constantly changing. As a Chinese saying goes, "when virtue rises one foot, vice rises ten". When you lay down a law to regulate something, I find a way to bypass it, go on making my profits without even the need to apply for a licence. Hence, after the passage of this legislative amendment, they may be subject to some more regulation, mainly the minors and the liquor sellers. I thus hold that this is worth our support.

Regarding the other part of the amendments, our colleagues have expressed their many views and I also wish to express mine. The ordinance now mainly regulates licensed premises; and when police officers enforce the law, they will check whether the liquors stored in these premises are allowed under their liquor licence. In other words, premises with a liquor licence can store liquor; and the premises cannot store liquor if they do not have a liquor licence. The Government says that upstairs bars are getting common. These bars operate on the twentieth or thirtieth floor of a building. As Mr Tommy CHEUNG pointed out just now, these upstairs bar operators can see through their CCTV that enforcement officers are coming up. So, by the time the officers arrive the premises, they have already left and the liquor moved away. Even if the officers search the premises, they will not find anything.

I thus think that the Government is aware of such cases, just that there are not many and the situation is not yet that common. This legislative amendment will allow a magistrate to issue a search warrant for an inspector to search a domestic premises for any liquor. As Mr CHEUNG said, some people may have many bottles of wine in their home, and I also have some at mine, but not in large quantity. If there happens to be a minor at home, the inspector can arrest and prosecute them, since there is liquor and the suspect. I thus hold that this practice will arouse much controversial, since searches will be extended from licensed premises to domestic premises which are not proved to have stored liquor. There is a big change to the spirit of the ordinance. To me, this is hard to accept.

Hence, I do not support this group of amendment. I hope that the Government will collect more empirical evidence to prove that private kitchens operating in domestic premises and selling liquor are now very common before it decides to review this issue. Moreover, I wish to remind the Government that Mr Tommy CHEUNG's proposal is correct. We can combat this problem by covert operation. Hence, these activities can never be eradicated by legislative amendments because when virtue rises one foot, vice rises ten. I hope the Government will carefully consider this option.

I so submit. Thank you.

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

DR CHIANG LAI-WAN (in Cantonese): Chairman, please wait a minute.

Chairman, I originally have no intention to speak on the subject, because in principle, several Members of the Democratic Alliance for the Betterment and Progress of Hong Kong and from the pro-establishment camp have already spoken, and we have made our attitude clear. I also believe that government officials and the Secretary have already received our messages and should understand our concerns.

However, why should I rise to speak? It is because the whole thing is really puzzling to me. The objective of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") is to prohibit the sale of alcohol to young people under the age of 18, and the amendments under discussion, which are proposed to clause 7 of the Bill, seek mainly to allow law enforcement officers to enter and search domestic premises. The Bill itself and the amendments proposed to clause 7 will affect thousands of households and our younger generation, while everyone who has alcoholic beverages at home or all families with youngsters aged below 18 may be subject to nuisance thus caused. This is a very important livelihood issue, but not a single Member from the opposition camp has spoken and voiced their opinions, with Mr CHAN Chi-chuen being the only exception. I have listened to the very reasonable and conscientious remarks he made this morning on the Bill, and have nearly mistaken him as one of our Members in the pro-establishment camp. However, this is not the case, because anyone who cares to look into the Bill would agree that this is the correct thing to do in order to handle the matter.

Nevertheless, Members from the opposition camp has surprisingly chosen not to voice their opinions today, and they have even disappeared and have not attended the meeting. I cannot help but wonder if they need to meet again to discuss whom they should nominate for the upcoming election, or to review their Plans A, B, C and D. Members of the Legislative Council are elected by voters to voice out for the people of Hong Kong, and they have to voice out when a piece of legislation which may genuinely affect Hong Kong people is introduced, is that right? They entered the Chamber without saying what they should say and left soon afterwards, so would it be possible for them to get re-elected to the Legislative Council with work performance like this? Discerning voters can just seriously think about this, and should then realize that such persons are not worth their support, is that right?

(THE CHAIRMAN'S DEPUTY, MS STARRY LEE, took the Chair)

Let me go back to the Bill. Secretary, I will first talk about the Bill, and then discuss the amendments proposed to clause 7. With regard to the Bill, I consider it a belated attempt to legislate for regulating the sale of alcohol. I have done some researches and found that many advanced places and countries over the world have put in place legislation to prohibit the sale of alcohol to persons under the age of 18. Very clear regulations have already been laid down in supermarkets or many other places in overseas countries to basically prohibit the sale of alcohol to young people aged below 18. That being the case, how come requirements have only been put in place to prohibit the sale of alcohol to persons under the age of 18 in food establishments or bars when the legislation was enacted back then, without regulating the sale of alcohol in such other places as convenience stores and supermarkets? There must be some reasons for this.

What difficulties are we facing in this respect? I have done some researches and found that the issues examined back then are exactly what we should take into consideration today, and the problem actually lies in the ways formulated to regulate the sale of alcohol. It is now stipulated in overseas countries that youngsters aged below 18 are prohibited from purchasing alcohol, but we all know that young people are often the largest consumers of alcohol during festive seasons or holidays. They will gang up to purchase alcohol together, and those who have reached the age of 18 will go into a store to make bulk purchases, while others will go in and out of the store, carrying cartons of alcohol away. Since no restriction is imposed on purchasers who have reached the age of 18, they can purchase alcohol for their peers while other youngsters will wait and receive wine products outside the store. When I studied abroad in Quebec, I did witness the handling of wine products by some kids aged only 12 or 13 outside alcohol shops, and they were often the ones who drank alcohol and got drunk on the streets, because they dared not bring wine products home, lest their parents would find out.

Therefore, the Bill is a belated attempt to legislate for regulating the sale of alcohol on the one hand, and has perhaps provided for an unsound regulation system on the other. Certainly, there are both pros and cons in all legislative exercises, and no matter what, it is after all a good thing to legislate for this purpose. As mentioned by Dr Elizabeth QUAT just now, alcohol consumption by young people under the age of 18 will cause very serious harmful effects or various serious sequelae to their liver, which is still developing. We can all see today that heavy consumption of alcohol is one of the risk factors for cirrhosis or liver cancer. The Bill therefore has my support, because it can at least ...

DEPUTY CHAIRMAN (in Cantonese): Dr CHIANG Lai-wan, please focus your speech on the amendments proposed to clause 7 of the Bill.

DR CHIANG LAI-WAN (in Cantonese): I know, Deputy Chairman, and I am about to give my views on clause 7, but please allow me to add one more word. The Bill can at least make it more difficult for young people to purchase wine products, or prevent them from exposing themselves to wine products so easily on a spur of the moment.

I learned from the publicity materials of Mother's Choice recently that quite a number of underage girls got pregnant when they got drunk. Mr CHAN Chi-chuen has also indicated previously at meetings that the incidence rate of AIDS is ever increasing, and this can be attributed to the fact that many people, especially young boys, have failed to take precaution measures to protect themselves after they got drunk.

Deputy Chairman, I am now going to speak on clause 7 of the Bill, which allows law enforcement officers to enter and search domestic premises. As queried by a number of colleagues just now, how can law enforcement officers apply a search warrant from a magistrate? Can they simply, as alleged, inform a magistrate that there are suspected activities of selling alcohol to persons under the age of 18 in a domestic premise and obtain a search warrant for this? In this connection, we have to bear in mind that an application for a search warrant cannot be supported solely by a suspicion, and law enforcement officers have to explain with illustration that there are adequate grounds for so suspecting.

If a report is received, alleging that many people were seen bringing along alcohol and entering a domestic premise, or a large number of youngsters were seen entering and leaving the premise constantly, would this constitute a reason for applying a search warrant to enter and search the domestic premise? In other words, it will constitute a ground for suspicion if wine products are stored in a household; and for a family with youngsters aged below 18, it will constitute another ground for suspicion of alcohol selling activities if the classmates of these youngsters often come to visit them at their home. Would these two points be enough to constitute reasonable grounds of suspicion?

Even though a search warrant is issued and a large quantity of wine products are found in a domestic premise, there is still no evidence to prove that the premise has been used for the illegal sale of alcohol or the sale of alcohol to

young people. In case account books are found and in which detailed records have been kept of the quantities of wine products sold on certain specified dates, I think they should in no way contain any information about the purchasers' identity and date of birth, and this can at most prove that the domestic premise has been used for the illegal sale of alcohol. Moreover, there is now adequate legislation to monitor and regulate the sale of alcohol without a licence, and protection in this regard has already been given under the existing legislation.

Hence, I consider that it is indeed unnecessary for the Government to propose amendments to clause 7 of the Bill, because legislation has already been put in place to monitor and regulate the illegal sale of alcohol. Moreover, anyone who sells other things in domestic premises has to a certain extent violated other ordinances concerning the use of domestic premises and the operation of business without a licence, let alone selling alcohol in domestic premises. It is also an offence for anyone to sell alcohol without a licence, and protection in this regard has already been given under the existing legislation.

If the Government argues that the element of "under the age of 18" has been included in the proposed amendments under discussion, I would say that this will only add to the difficulties of the Government's law enforcement actions. Even though I vote for the proposed amendments today, I am sure the Secretary will only offer me a very disappointing answer when I ask about the relevant prosecution rate three years later. The Secretary may tell us that through their own hard work, the Government has really managed to initiate prosecution in respect of a limited number of cases, but this may not necessarily lead to successful conviction, because a wide range of evidence will be needed to substantiate the cases. The Government may undertake covert operations and make arrangements for a person aged 16 to enter a domestic premise and make a purchase, but if that person can enter the premise so easily, why is it necessary to apply for a search warrant?

Therefore, I concur that legislation should be enacted in this respect, because this will protect our community and the next generation, but the exercise will become an annoyance to the people if the legislation enacted fails to achieve the desired effects and is difficult to enforce. There are about 2.8 million households in Hong Kong, and all of them will be subject to the nuisance brought about by the proposed requirements, because how many families in our society nowadays do not have a small quantity of wine products kept at home? We all must have kept some beer at home, let alone other wine products, and Mr SHIU

Ka-fai, am I right in saying so? I think the Secretary must have also kept some wine products at home, and although she is not a wine drinker, she can just go and make a check at home, where some rice wine for cooking purposes can definitely be found. Households with elderly members may have kept a few bottles of Yomeishu, and these are also wine products that can constitute reasonable grounds of suspicion, is that right? We should thus be very careful about things like these.

It is totally meaningless for us to pass some amendments that cannot be enforced. Furthermore, as Members of this Council, we should be responsible to the people of Hong Kong. Who will be willing to see the passage of a bill which will render each and every household a suspicious business operator involving in the sale of alcohol, and thus empower the Government to apply for a search warrant to enter and search domestic premises? This is definitely against the wish of any good citizens. Therefore, I support the Bill in principle, but as illustrated just now, I do have a lot of concerns relating to the amendments proposed to clause 7. I hope the Secretary would respond to such concerns one by one later, or explain the seriousness of the problem and provide the estimated number of prosecution cases.

I so submit. (*The buzzer sounded*)

DEPUTY CHAIRMAN (in Cantonese): Dr CHIANG, your speaking time is up.

MR SHIU KA-FAI (in Cantonese): Deputy Chairman, I actually spoke twice on the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") yesterday. I reiterate that as a representative for the wholesale and retail sector, I represent the shop operators selling liquor and they actually also do not agree to selling liquor to minors under the age of 18. Since these shop operators have been observing this regulation, the sector is in fact in support of this Bill and no one asks me to raise opposition on his behalf.

However, I would like to spend some time explaining to the Secretary the difficulties in actual enforcement, in the hope that his colleagues can pay more attention. As I mentioned yesterday, the passage of the Bill will impose certain pressure on the frontline staff of convenience stores or shops. Shop operators may be very familiar with the law, but the frontline staff may only be working on

a part-time basis. When there are some drunken people who look like 17 or 18 years old—many youngsters are now quite tall and stout—asking to buy liquor, if the shop assistant refuse to sell to them, this will increase the chance of disputes.

As I know, the authorities have label stickers attached to the places where liquor is sold in order to remind the people concerned. In addition to stating in the sign that no liquor will be sold to any person under 18 years of age, I suggest including a clear statement that frontline staff selling liquor to minors may be criminally liable, so that frontline staff will have stronger grounds to refuse selling liquor to them. At present, since young people are not subject to any legal liability for purchasing liquor, they will insist on buying liquor and will argue with the shop assistant. Many Hong Kong citizens, especially young people, do not understand why the staff will refuse to sell liquor to them, and thus will argue with the staff. However, if there is a label stating that a shop assistant selling liquor to minors will be punished legally, the customers will have better understanding.

Besides, in terms of publicity, as I also mentioned yesterday, given the bountiful reserves at present, the Government can conduct more publicity in media like newspapers, radio and television, in order to remind retailers that selling liquor to minors is illegal so that the youngsters will not make life difficult for the staff. This is one approach of doing publicity, and the Government has to put more efforts in this regard.

Yesterday, I also mentioned that rice wine and millet wine used in cooking are also covered under this regulation. Let us think about it. This kind of products is not only sold in convenience stores, but also in grocery stores or even at the small market stalls operated by some elderly women. When you go to the market, you can see some elderly women, who may not speak Cantonese so well, selling groceries including rice wine. How to let them know that the sale of liquor to persons under 18 years of age will be prohibited in the future? The publicity of the Government cannot be briefly done, as these elderly women may not watch television programmes. Then how the Administration contact and inform them? Will the staff from the Food and Health Bureau visit all this kind of markets and attach stickers onto the shops selling liquor? But the authorities need to pay attention, as the grocery stores are usually small. When you visit a market, you can notice that the stall owner will usually have the groceries like mushrooms fully hung in the stall and there is basically no space to attach even a sticker. If the warning sticker cannot be attached, what will the authorities do?

Will the stall owner be required to remove some goods so that the officer can attach the sticker? Because the stall area is really very small. In practical implementation, notwithstanding the sticker being attached, does the elderly woman really understand the content? How to make her understand? I think this cannot be simply done through media, but the officers really have to visit all the markets and inform these stall owners. Otherwise, these elderly women, who are not clear about the content of the law, may end up being arrested and taken to jail. I have to particularly mention this point as this is not a problem easily resolved.

Besides, I will further mention the actual situation about distribution. I learn that after listening to our discussion at the Bills Committee meetings, the government officials have actually made some corresponding improvement. I would like to talk about the practical operation. For instance, I know how to do online shopping and I use a mobile application to patronize a certain type of chain stores, such as the chain stores selling daily necessities. In fact, it is rare that a customer will only purchase liquor. If he only buys a few bottles of wine, can he ask the supermarket to deliver them to him? The supermarket may not provide delivery service to him, as usually it only provides such service when a customer has purchased a certain quantity of products. If a customer has only bought two bottles of wine with \$20 and the supermarket needs to deliver them to his residence, will the supermarket not be operating at a loss? Therefore, the quantity of products purchased should be huge. A family, for example, needs to have purchased some daily necessities, including liquor, with a few hundred dollars in this week. A parent, through ordering online, made a request for delivery by putting a "tick" sign in the box. When the deliveryman arrives at the purchaser's home with the goods, he has to observe whether the recipient is at least 18 years old, as the recipient has to be 18 years old or above in order to collect the delivery. If the person is only 12 years old, he cannot collect the delivery.

Then, how to educate those online purchasers? In terms of the way of education, it cannot be as simple as attaching labels. Through the media, the authorities have to teach the citizens that in future, after a parent has ordered online some products, including liquor, which will be delivered to his apartment, he has to make sure that he will be at home to collect the delivery, otherwise the goods cannot be collected. In a case when the goods are delivered to the place, the parents are not at home but a young person of 14 to 15 years old is doing homework, as usual, the young person will be ready to collect delivery when the

goods are at the door. But on receipt of delivery, it is found out that there is beer. Then what should the deliveryman do? If he hands over the goods to the child, he can actually be arrested. If he, an employee directly employed by that supermarket, sees that the recipient is a child and intentionally hands over the goods to him ... Secretary, will he not be arrested? I see that you are shaking your head. Should he be arrested? It should not be right, as the recipient should be at least 18 years old, right? It should be that way. I just saw you shaking your head. You have to correct me later if I am wrong, as I might have so far got the whole concept of this Bill wrong.

Therefore, when the deliveryman arrives at the apartment and really cannot see any adult there, if he insists on leaving behind the goods, he has in fact broken the law.

DEPUTY CHAIRMAN (in Cantonese): Mr SHIU Ka-fai, I shall remind you that you have already digressed from the amendments to clause 7 of the Bill. You should have spoken on the general merits of the Bill during the Second Reading debate.

MR SHIU KA-FAI (in Cantonese): All right, I got it, Deputy Chairman. I will directly and quickly return to the theme concerned. I only ask the Secretary to pay attention to a very practical example. Why? If the deliveryman does not leave behind the goods, he has to take them back. Then who will be responsible for the transportation expenses? Should the delivery be sent to the same place next time? The expenses incurred by an operator will in fact be huge and the Secretary needs to pay special attention to that.

This issue today is actually not a political issue, and thus all Members are very serious in discussing whether the amendments stand to reason to Hong Kong people, especially on private domestic premises or entry to private places or domestic premises. In fact, many Members have already spoken and I also expressed my views yesterday. I was told by the government officials during the course of deliberation of the Bill, and even explained by a government official who called me yesterday morning, that the Bill was fine in other aspects. However, after listening to the speech of Mr Tommy CHEUNG, Chairman of our political party, I find that what he said also seemed to be reasonable. From last night till this morning, the Secretary should have noticed that most of the Members who spoke share the same feeling that this situation can arise.

We can consider another practical situation. We are now talking about private domestic premises. If you want to buy something from a shop, namely a convenience store or a supermarket, you can directly walk inside. If you enter a private domestic premises with a search warrant, can you arrest any person concerned? In case you have already obtained a search warrant, and you are informed that there are liquor selling activities going on in the domestic premises. When you go to that domestic premises and ask the people to open the door, do you think the minors inside the premises will still be holding wine bottles so that you can arrest them? We can imagine what the situation will be. You are standing outside the door of a private domestic premises and ask them to open the door. The main door of a private domestic premises is usually made of wood instead of glass, and the people inside the premises know that you are standing outside. When you enter the premises and ask them whether they are selling liquor, will those minors admit that they are selling liquor? I think it is very unlikely that you can catch anybody.

Another scenario is when an undercover operation is being carried out. In this undercover operation, you will go to a private domestic premises where there are liquor selling activities. You may see a tall and stout person who looks like over 18 years of age but is actually only 16 years old. You deliberately go to that private domestic premises to arrest him. Thus you will ask him to open the door and ask him to sell liquor to you, right? Let us assume that you, being accompanied by a colleague and both of you pretend to be customers, have found a mature looking person who is of tall and strong physique but is actually under 18 years of age. If you watch him selling liquor on the scene, you will catch him red handed without the need of any search warrant, right? By means of an undercover operation, you can arrest him immediately.

Some Members also query whether there will be a loophole. My assistant keeps on studying this question with me and asking me whether there will be a loophole, in the sense that more people may sell liquor in private domestic premises if this amendment is not carried while the situation is not properly handled by us. In fact, I do not rule out this possibility. However, we also have to consider the privacy issue, a concern of the general public in society. You suddenly come to my home, claiming that I am selling liquor, and enter my apartment. This in fact is a cause of worry to Hong Kong people.

I would like to remind the Secretary that when the Government proposed to legislate on Article 23 of the Basic Law, it met opposition from citizens in the whole territory. At that time, there was one very strong reason of opposition from many people. They thought that with the legislation on Article 23 of the

Basic Law, law enforcement officers could make arrests in people's apartments or break into the premises at any time. A lot of citizens in Hong Kong were thus very scared. Why was there opposition to the legislation on Article 23 of the Basic Law from so many people back then? This in fact was one of the reasons. People were worried that law enforcement officers could enter their domestic premises at any time without any special reason, or simply come at will, right? If I am wrong, Mrs Regina IP can correct me later. This was what many people and I understood at that time, but many details, of course, might not be like this. If there is a chance, I would ask Mrs IP, the former Secretary for Security, to correct me later.

However, with this incident, I would like to tell the Government that Hong Kong people are actually very concerned about their privacy and their homes. Conducting investigation by law enforcement officers in the shops is fine to the public. The public will agree that minors should not drink and they have to be protected. Nevertheless, if law enforcement officers can enter my premises any time because I have some liquor at home, I will feel very worried. Many families have wine at home. Mr James TIEN has his own collection, in which some bottles worth a few ten thousand dollars each. In fact, not many Hong Kong people can possess the expensive wine, but many of them will have bottles of beer worth a few dollars each and even some old wine. But will this be taken as an excuse for a home search by law enforcement officers? Many Hong Kong people are very worried. This is the most controversial point in respect of the Bill, and many Members are keeping track of the progress of this situation.

Therefore, I would ask the Secretary to consider our views. As I said yesterday, I will follow the Chairman of our political party in voting against the amendments in this debate session unless you can completely convince us in due course that your amendments stand to reason. Thank you.

DR KWOK KA-KI (in Cantonese): Deputy Chairman, we are discussing the proposed amendments to clause 7 of the Bill. Initially, during the deliberations of the Bill, the Bills Committee has not discussed this amendment. In fact, the amendments are proposed since we find that the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") this time around does not regulate remote sale of liquor or off-premise sales of alcohol where liquors are sold on premises other than bars and restaurants. The legislation will be inadequate if someone organizes sales activities of alcohol or private parties that charge fees. As a result, the Government has to propose two groups of amendments to the new amendments in order to plug the loophole.

The first group of amendments is to exempt the staff from the liabilities arising from delivering liquors in the course of business for another person, as they are not employed by the seller or supplier. This exemption clause has been discussed thoroughly during the scrutiny of the Bill. The Government therefore makes the arrangement to protect wage earners and employees who have no personal interests or benefits. The biggest controversy is the second group of amendment. That is to say, inspectors of the future law enforcement agency, either from the Department of Health ("DH"), the Tobacco Control Office ("TCO") under DH or other law enforcement agencies, could obtain the search warrant from a magistrate under certain requirements set down by the magistrate. Deputy Chairman, honestly speaking, there is no difference between the proposed practice and the existing practice that Government staff may obtain search warrants from magistrate through a certain procedure, but a lot of pro-establishment Members are making an issue of this provision.

I have also noted the Secretary, but I am not sure if it is the problem of the Secretary or the problem of your boss Carrie LAM. A lot of Members who have spoken are Members from the ruling coalition. Frankly speaking, they are Members who have been awarded a seat in the Executive Council. In the final analysis, they have been talking in such an exaggerated manner of how they support the ban on the sale of liquor to minors under 18, but they have not uttered the most important word, and that is, the interests.

Why these pro-establishment Members have suddenly become human rights advocates? You know that during the legislation on Article 23 of the Basic Law—the Liberal Party is not included, at that time the Liberal Party ... I believe everyone applauded the Liberal Party under the leadership of its chairman Mr James TIEN. Among many things, including the legislation on Article 23 of the Basic Law, he had done something Hong Kong people wanted him to do. However, a number of irrelevant political parties, such as the Democratic Alliance for the Betterment and Progress of Hong Kong and so on, become advocates of human rights today. Members should remember that had it been the legislation on Article 23 of the Basic Law, they will certainly not say that, as they may even say that the enforcement efforts should be enhanced. What has Dr Junius HO said? He asked when Carrie LAM would proceed with the legislation on Article 23 of the Basic Law. Therefore, I have a very strange feeling. I think they have a split personality.

(THE CHAIRMAN resumed the Chair)

According to my observation in the Legislative Council over the years, I should not feel strange. When it comes to interests, no way. Be it their fathers or grandfathers, just no way, as long as interests are involved. What we are talking about now is tens of millions of dollars business benefiting from the sale of liquor. The liquor sale business, alcoholic beverages dealers, agents, bars, restaurants ... how much money is involved in these businesses? Besides, some people will do the selling in the name of a private party. On the surface, it has nothing to do with people who are making a living on commercial premises, but hundreds of millions dollar businesses are involved. For that reason, I wish the Secretary to open your eyes wide to see who your coalitions are. When it comes to interests, when it comes to money, you must not think that a seat in the Executive Council is something extraordinary. It is actually something so easily obtainable. This is just one of the many examples. I do not wish to cite more.

Years ago when the Government was trying to enact the Undesirable Medical Advertisements Ordinance to regulate the claims of health foods, Mrs Selina CHOW strongly opposed the legislation in the Executive Council on behalf of these people. They would stand up and impede the passage of the legislation. No matter how hard you try to protect the public, they would impede, impede ... impede until either the scope of the enforcement is significantly narrowed down, or the implementation date is deferred to a very far-flung one. You are very lucky in this case, as they have not required you to commence the enforcement only after 3, 5 or 10 years. That is something they can easily achieve.

Superficially, these people like to talk about virtues and morals, such as protecting young people and problems pertaining to the cirrhosis of liver, but they will not touch upon a certain subject, because that will cause a significant adverse impact on their industry. Money is of utmost importance. I understand the Mr SHIU Ka-fai's speech, because he represents the industry, he has to do it. As to other Members, please talk less about virtues and morals, will you not continue in your own way after talking about the virtues and morals?

Coming back to this subject, regarding this particular case, the Government has not done enough. Secretary, perhaps you and your colleagues have not explained thorough enough to the public of the importance of the entire Bill during the publicity campaign, or even you have not adequately explained the Government's proposal to Members other than those Bills Committee Members. Therefore you have ended up in today's situation ... I dare not to speculate the

voting results, because everybody knows that whenever the Government is going to introduce a Bill and regardless how ridiculous the proposal is, the ruling coalition, especially those political parties having a seat in the Executive Council, will side with the Government. As to the opposition—that is, us, will be deemed an eternal rival of the Government. I consider that we should not have this kind of logic. You will see the "instant karma" later on.

I understand that the ultimate purpose of the Bill, its original intent or the amendment this time around, is to plug the legal loophole, so as to authorize law enforcement agents of DH to obtain the search warrants from the magistrate by virtue of the Ordinance in case any controversy arises. Everyone knows that DH staff are not police officers or customs officers. They are not even forces equipped with firearms. Generally speaking, they are actually people who fear being roughed up. Honestly speaking, numerous TCO staff ended up in bruises and bloody noses from time to time. They do not have the ability and it is difficult for them to enter domestic premises. I assume that they do not dare to enter domestic premises.

In fact, it is nothing new under the existing legislation to obtain a search warrant from a magistrate in order to enter and search a premises. No matter the provisions in existing legislation or the laws of the British-Hong Kong era, public officers are permitted to enforce various laws through obtaining the magistrate's authorization. The biggest difference this time around is the sale of liquor. There is a big difference between the sale of liquor and drugs (or dangerous goods). Therefore, the controversy is enormous, and we understand that. The most regrettable thing is, in my opinion, that the Government has deleted certain sound and robust amendments proposed under the Bill. Mr SHIU Ka-fai has made it very clear and I agree with him that a notice should be displayed on all premises that sell liquor: It is an offence to sell liquor to minor and the offender will be fined and jailed. I also proposed to the Bills Committee that one more sentence should be added on the notice displayed on premises that sell liquor: Liquor will pose a hazard to the health and the development of minors. However, has the Government listened? No.

Perhaps the Secretary thinks that members of the coalition will support her even if she gets half or part of the job done. The Secretary should be able to see that they will not support you even if you have made less efforts and achieved less objectives. It is simply because it is a matter of interests. Can you hear that is a matter of interests? Hundreds of millions of dollars are involved. The

Bill involves a lot of interests. The Bill to regulate medical devices which will be put forward later will meet the same Waterloo, it is being scrapped and dismantled at the present stage ...

CHAIRMAN (in Cantonese): Dr KWOK Ka-ki, I wish to remind you that the Committee is debating on the amendments to clause 7 of the Bill.

DR KWOK KA-KI (in Cantonese): I know, Chairman, I will return to clause 7. I am just citing examples to show how deplorable the Government is, and how it has trusted the wrong people in the introduction of the Bill, Chairman. The Government wants to regulate the market and protect more consumers through the introduction of the medical devices bill. But it is tantamount to clause 7 which aims at protecting young people, that is, it will meet its Waterloo simply because of the question of interests. The pro-establishment camp, the royalists like to talk about virtues and morals, but everyone knows clearly, how can they utter a word of interests? Bosses or financiers are backing them up. May people will seek their help and tell them this will affect the industry. As it involves a lot of money, hundreds of millions of dollars, therefore they should not touch upon the issue. It is better for them to find a grandiose excuse to veto the Bill.

Therefore, I consider that the Government should learn from lessons. First, it should not take anything for granted and think that there are reliable alliances when it is going to take on any task. There won't be any reliable alliances. Money and interests are the biggest alliances, please get a clear understanding of it. This is the first point. Second, the Government should work more diligently when it takes on a task. Although there are not many Members in the Bills Committee, it will not end up in a mess like this time if it can bring up the issue earlier and explain the details as well as the intents of the Bill to the public and other Members of the Legislative Council. For example, it should explain how law enforcement agencies would work with cautions and why the provisions are actually not too different from other laws, in particular a magistrate's consent has to be obtained and a search warrant will only be issued when certain requirements are met. Actually all of these are very clear. However, the Government only brought up the issue at the final stage of the Bills Committee's discussions. That has made things difficult and will throw the Government into a quagmire.

Unfortunately, the Bill is just a tip of the iceberg. It is just like the Private Healthcare Facilities Bill. When it involves the interests of the beauty industry, for example: Whether it is good to use anesthetic cream; or will the regulation anesthesia on medical devices affect the hundreds of millions dollar business of the beauty industry, on top of the business transactions of some robustly financed listed companies. It will be difficult for the Government to deal with these issues. The Government should not go down on its knees because of the interests of the pro-establishment camp and the pro-Administration. Besides, there is no benefit for the Government to go down on its knees. Now the Government is just kneeling down half way, but these people want the Government on its knees completely. The Government thinks that these people will feel grateful if it does something less by omitting the health advice. But now are these people feeling grateful? They are not feeling grateful at all.

CHAIRMAN (in Cantonese): Dr KWOK Ka-ki, I have already reminded you, the Committee is debating on Clause 7 of the Bill.

DR KWOK KA-KI (in Cantonese): Chairman, I am returning to Clause 7. Because Clause 7 is about how the two groups of amendments are formulated in order to improve the Bill.

I consider that the Secretary should understand that no matter how noble her ideal is, no matter how important the ban on the sale of liquor to minors is, I believe it will not cause any controversy within the medical sector. We oppose to the sale of liquor to minors under the age of 18 years. We even think that the Government should organize some large scale campaigns, which will surpass the scale of present day campaigns, to publicize the harmful effects of alcohol consumption. The inadequacy of the present day campaigns is a result of the Government's waiving of wine duties several years ago. It has send a very contradictory and confusing message to society and eventually made the Government the victim.

Some Members blame us for not speaking up for democracy and human rights. I really hope these people will stand up and say that they will defend for the rights of Hong Kong people when are going to speak on democracy, human rights and the legislation on Article 23 of the Basic Law in future, instead of interpreting things out of context and opposing to some government policies

because of certain personal interests, and remaining silent by the time when "Grandpa" ordered the legislation on Article 23 of the Basic Law. They may act like Dr Junius HO by asking when will that be legislated and blaming the Government for the delay. It had better be legislated by tomorrow. That is patriotism. Is it patriotism or cupidity?

CHAIRMAN (in Cantonese): Dr KWOK Ka-ki, if you are not going to return to the subject of the debate, I have to ask you to stop. Please return to the current subject of discussion.

DR KWOK KA-KI (in Cantonese): Chairman, I am talking about Clause 7. The amendments to Clause 7 will affect the income or livelihood of some people, Chairman, therefore these people are so nervous about the amendments and trying to find a grandiose excuse to oppose them. They should be supporting the Government. I consider that it is the duty of the pro-establishment camp, the pro-Administration to support the Government. It is perfectly alright to do so because you guys are paid to do the job to avert others' perils. We do not have any interests or benefit at all. What interests or benefit can we get? The sale of liquor has nothing to do with us. The Government will not give us any benefit. We do not care about such interests or benefit, please do not give us any. However, we consider that we should discern between right and wrong. We should uphold justice. We should seek justice in everything.

With regards to all the grounds and reasons for forbidding the sale of liquor to minors under the age of 18 years, they are not very difficult to understand, unless some people pretend that they are so ignorant that they cannot understand the reasons. But they are just trying to find ways to distort the original intents. I so submit.

MR SHIU KA-FAI (in Cantonese): Chairman, I have spoken on this subject three times, but why should I speak again? It is because I heard Dr KWOK Ka-ki said just now that I was going to veto the proposal for the interests of the industry. I have made myself very clear in the previous three speeches that I am a representative of the wholesale and retail constituency, the constituency includes people who sell liquors. From the commencement of the discussion of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") to now, no trader

or shop owner has ever told me that they supported the idea of selling liquor to people under the age of 18 years. Hence, I have all along been supporting the Bill. The only question is, many pro-establishment Members are concerned and worried about that members of the public in Hong Kong may worry about the issue concerning their own privacy if a precedent of searching a domestic premises is set. We oppose to the practice in this area. But I have all along been supporting the idea that traders should not sell liquor to people under the age of 18 years. Chairman, I strongly disagree with what Dr KWOK Ka-ki has said just now, that is, we only care about interests. For that reason, I have to rise and explain that.

The second point is that he also said pro-establishment Members were pro-Administration, thus we would be biased in favour of the Government. I always say that pro-establishment Members are practical and realistic. We will support whatever is right and disagree whatever is wrong. Today's discussion on the Bill can show our stance clearly. Although many pro-establishment Members or even Executive Council members have expressed their views, will they all cast a vote of support for the Government? If it is wrong, we will naturally cast an opposing vote. Today's voting result will tell Hong Kong people that whether or not the pro-establishment camp is practical and realistic.

Thank you, Chairman.

MR TOMMY CHEUNG (in Cantonese): Chairman, after listening to the speech of Dr KWOK Ka-ki, I cannot but respond to his remarks even though he has said nothing new at all.

Talking about split personality, Chairman, I think that you, sitting sanely in this Chamber, know very well those who suffer from split personality most are those who occupy the moral high ground and trumpet democracy and human rights. However, just now when I talked about the incident of legislating for a pack of cigarettes, the most democratic figure, the father of democracy—I am not sure how other people address him—considered it reasonable for a policeman to conduct body search on the ground of suspicion that you have a pack of cigarettes in your possession. I am used to the sight of my pan-democratic camp colleagues from talking in one way and doing in another. As long as the provision suits their use, they do not care about the details. They can sweep everything under the carpet.

Dr KWOK Ka-ki criticizes me for having split personality. Honestly speaking, I consider that he is suffering from a serious split personality problem after I have taken a glimpse at him. I also agree with what he said just now. That is, about the help offered by Mr SHIU Ka-fai because Mr SHIU was representing the industry last time when we were proposing the Bill to amend Medical Registration Ordinance ("MRO"). I have also said that actually I was a representative of the industry. But he has not taken the time to listen to my speech and he is not present in the Chamber that often. I am not sure how he comments on and discusses politics. He collects the money from taxpayers and then considers voters should continue to elect him as the legislator representing the constituency.

However, he can see that just like the proposed Bill to amend MRO—Dr LEUNG Ka-lau was the representative of the industry in the previous legislative session, Dr Pierre CHAN is the representative in this session—I have no objection to the fact that he has to do something for the industry, but I can see that certain Members elected in the geographical direct election always look down upon Members representing the functional constituency and criticize that we will perpetrate all manner of evil acts for the sake of personal interests and gain. In that case, since he is a Member from the geographical constituency, what will he do for his own personal interests and gain? Here are the questions I have not asked him: Why he was in a panic and asking for an increase in manpower and resources and was it because a complaint was filed with the Medical Council of Hong Kong against him? I have not asked him such questions. Therefore, I have great reservation in Dr KWOK Ka-ki's ability to deliberate on political affairs, including the interests of the industry as claimed by him. What are such interests? The representatives of the industry in this Council include Mr SHIU Ka-fai and I, Tommy CHEUNG. All the operators of convenient stores and supermarkets are our voters. They have not asked us to vote against the Bill. But what is the relationship between our industry and the issuance of search warrant to enter domestic premises in the deliberation of the legal provisions? Who can we help to gain the interests? Will I get my share of profit if I conceal all those who sell liquors in domestic premises? Will Mr SHIU Ka-fai get his cut? If there are personal interests and gain, quite the contrary, the interests and gain of our industry will be affected—if the interests and gain do exist—because the industry has to pay for the hefty rents for the shops, but they are not allowed to sell liquors to minors under the age of 18 years, yet people who sell liquors at home illicitly may sell liquors to minors.

Everyone can see that Dr KWOK Ka-ki is undeniably a veteran legislator. But I wonder whether or not he speaks spontaneously and if he knows what he is talking about. In our capacity as Members of the Legislative Council, I consider that we should try our best to convince our colleagues in the legislative process and to tell the Government if the subject in discussion is a good piece of legislation. I have pointed that out in the speech I delivered yesterday that unfortunately, it was inappropriate for the Government to table this Bill to the Legislative Council as the Government had not made it clear during the scrutiny of the Bill. For that reason, I have to give the Secretary my sincerest advice that she should consider withdrawing the amendments to new Clause 44(A). Thank you, Chairman.

MRS REGINA IP (in Cantonese): Chairman, who could have thought that this group of amendments to Clause 7 will cause such a heated debate. The main reason is that a number of pro-establishment Members consider the search on domestic premises disproportionate and they worry that it would excessively infringe on human rights, thus they oppose the proposal. I consider that it mainly depends on the personal values and inclinations. For example, the United States is a democratic country and always emphasizes on freedom and liberty, but it attaches great importance to and takes severe measures against the underage drinking issue due to its national tradition and social environment. The legal drinking age in the United States is 21, which is much higher than Hong Kong.

Nonetheless, the circumstance of this country is a bit peculiar. Its nationals under the age of 18 may drive cars—even though young people can only get a driving license when they have reached the age of 18, yet people under the age of 18 can learn to drive and drive around town. That is to say, minors at the age of 16 or 17 can drive, but they have to wait until they are 21 if they want to drink liquors. Nevertheless, it certainly has its unique historical background, because the United States has once banned alcohol. Chairman, you should also know that the United States has once put a ban on alcoholic beverages in 1920s', which is also known as the Prohibition Era. The ban is a result of its religious background. A lot of first generation immigrants of the United States are Puritans, thus they would observe a more stringent doctrine.

There is another social reason. That is, the drinking problem of the Americans, especially among young people. Besides fatalities resulting from excessive drinking among school children—including secondary school students,

there are also fatalities resulting from excessive drinking among university students. The worst but very common are fatal traffic accidents where motorists are driving under the influence of alcohol. For that reason, this democratic country does not only curb the sale of liquor to people under the age of 21, it also sets down stringent restrictions on alcohol consumption—that is, drinking. It has even amended its constitution to effect a nation-wide campaign to combat alcohol. Therefore, it really depends on how important it is to a government to combat the sale of liquor to young people.

I hope the Secretary for Food and Health will tell us later on about the impact of alcohol on our health and well-beings, as well as why the authorities attach much importance to the sale of liquor to minors therefore even domestic premises have to be search? I hope the Secretary will tell us something more about that. It is about the value and inclination of two things. Some people consider the problem not severe enough to warrant a house search while some consider there is a significant and potential crisis to allow drinking among minors, and that will also affect their health, thus customs staff should be authorized to search any domestic premises.

As to some people consider the enforcement is an excessive infringement on individual privacy and question how can law enforcement agents be authorized to enter domestic premises or private clubs, I can hardly concur with these arguments. I do not have the relevant information at hand, but I will seek the information from the Security Bureau later on. Actually, at present, there are ordinances empowering law enforcement agents to enter and search premises. Of course, law enforcement agencies are authorized to search for narcotics. At a particular point of time in the past during the height of the illegal immigrants ("IIs") crisis, staff of the Hong Kong Immigration Department ("ImmD") were authorized to enter and search a premises for IIs without a search warrant. At that time, ImmD considered that if it had to wait for a search warrant to enter and search a premises, the IIs might have already gone. For that reason, as to whether or not we should legislate for that, much will have to depend on the actual needs.

Perhaps the atmosphere in society has changed now. As far as Members are concerned, a number of Members prefer going easy on the issue and allow the public to consume liquors; or they consider the authorities have no reason to enter and search a domestic premises as the action will be considered an infringement of privacy. Nevertheless, a lot of ordinances did empower the authorities to do

so in the past. For that reason, I only wish to point out that we should not make too much a fuss about it. It is because the search warrant has to be issued by a magistrate. Personally, I consider we should authorize the Government to exercise the power, therefore the New People's Party supports the Government's amendments.

Chairman, lastly, I am extremely dissatisfied with the fact that some Members mention the legislation on Article 23 of the Basic Law and try to demonize it. For example, they said that it was the most heinous crime for Dr Junius HO to remind the Government of the legislation on Article 23 of the Basic Law. I am extremely dissatisfied with that. It is our constitutional responsibility, and we should not smear it and say that the legislation on Article 23 of the Basic Law a great scourge. I have to express my dissatisfaction about that.

Moreover, Chairman, I have to respond to the speech delivered by Mr SHIU Ka-fai just now, he said one of the reasons for people to oppose the legislation on Article 23 of the Basic Law at that time was that the law enforcement agencies were authorized to enter premises. Actually, it was part of the terror-spreading tactics of those people who wanted to smear the legislation. Actually, the Government proposed at that time that a search warrant issued by a police superintendent should be obtained for entering and searching a domestic premises. As far as the investigation of a serious crime was concerned, it was impossible for the police not to enter a premises. Besides, a lot of current ordinances would empower law enforcement agencies to do it. Subsequently, due to public concerns, the Government elevated the level of authorization for the search warrant. It was determined that only an extremely high-ranking police officer could authorize a search warrant in order to safeguard human rights. I wish to take this opportunity to clarify that and express my opposition to the unjustifiable smearing made by some Members on the legislation on Article 23 of the Basic Law.

MR HOLDEN CHOW (in Cantonese): Chairman, I am enraged at Dr KWOK Ka-ki's speech just now. I must speak again.

Chairman, having listened to Mrs Regina IP earlier, I may not share her views on the second group of amendment which proposes that law enforcement officers can enter private premises to collect evidence, but I do respect her very

much. She illustrates her arguments rationally based on facts. By logically presenting her points, she enables the Council to debate and deliberate respectably. I deeply respect her. Likewise, she has put forward her arguments and ideas, backing them up or supporting her points with reason. For example, she has explained that there are other ordinances which empower law enforcement officers to enter private premises for inspection with search warrants issued by magistrate courts. It is true that other ordinances grant the officers such power. As far as I know, the Personal Data (Privacy) Ordinance has such an arrangement. I even mentioned yesterday that this arrangement even applies to noise control. It is because noise disturbance may be generated in some private premises, therefore officers are granted such power based on this factor and background under the law.

Generally speaking, however, as far as our own values are concerned, I do not really agree with Mrs Regina IP's remarks just now. Sometimes we make our decisions in accordance with the value or proportion we attach to a certain issue. According to my values, I believe the problem is simple. If the subject today is the fight against felonies like drug selling or terrorism, it is inevitable that law enforcement officers have to enter private premises to collect evidence. But, Chairman, in terms of my observation and my personal opinions, the sale of liquor to young people under 18 years of age is an offence that deserves our attention and statutory regulation. That said, do we need to go so far as to allow law enforcement officers to collect evidence inside private premises? I have my reservations as this involves the question concerning proportionality and my own values. On the basis of Mrs Regina IP's arguments earlier, there is probably a slight difference between our values and proportion attached to this subject. This can explain why I do not support the second group of amendment, which allows law enforcement officers to enter private premises to collect evidence. In fact, what we need to focus on are the shops on the street. The main point is to regulate these shops. While not many private premises are found to have involved in these sort of businesses, how can we possibly introduce all these measures in one go? In my opinion, the Government is a bit too rush in handling the issue. I believe this measure is disproportionate. Because of this disproportionality, I cannot support the second group of amendment to allow law enforcement officers to enter private premises for evidence collection.

However, Chairman, why am I enraged at Dr KWOK Ka-ki's speech? Basically, I can summarize his entire speech with the word "smear". How did he smear us? He said the pro-establishment camp supports the Government on

every occasion, blindly, acting like royalists; in case we do not support the Government, he will then claim that it is the case because of the money and the sectorial interests, etc. I guess Members can all hear how we can basically conclude his 15-minute speech with the word "smear". He simply intends to smear and arbitrarily label others. What else has he done? Actually, everything done by the pro-establishment camp is wrong in his eyes, while all deeds done by them, the opposition camp, are virtuous. We do everything wrong. His reasoning is as simple as this.

Chairman, the Chamber of the Legislative Council is not a place for these Members to randomly accuse others. Apart from the smearing remarks, they even want to mislead the public and distort right and wrong. Having listened to Mr Tommy CHEUNG attentively, I share his view that as Members of the Legislative Council, our duties in this Chamber is to carefully scrutinize any bills submitted by the Government to the Council with a view to examining any problems in the provisions. As regards the process or the intent of enacting the legislation, we can provide our support, yet we are duty bound to scrutinize the details and remind the Government about any problems found. If the Government withdraws the relevant amendments, let them be withdrawn then. But if the Government opts not to withdraw the amendments, we cannot offer our support though. We may tell the Government that we have no alternative but to vote against these amendments. Nevertheless, we support the main body of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill"). As I have reiterated time and again, I believe no Members here have ever said that we should not enact a law to prohibit the sale of liquor to young people under 18 years of age. No one ever said that. If one did say so, please raise your hand and clarify my remark.

Since yesterday, many Members have made themselves clear in their speeches. We all consider that the Government tries to regulate the sale of liquor to young people under 18 years of age through legislation with well meaning. It does so in hope of protecting young people lest they will form a habit of drinking and be subject to the adverse influence. Regarding the direction, principles and reasoning, we understand and agree. So, why did Dr KWOK Ka-ki put words in our mouth and casually smear others? I think we really have to leave some clear records of proceedings today, otherwise, some years later when the people review today's meetings, they will falsely believe what he describes as true. Chairman, many members of the public are watching our meeting via the live broadcast, yet he is talking nonsense and arbitrarily

defaming other Members. Indeed, in order not to waste time, I have been kind enough by not asking him to withdraw his remarks. After all, I have tolerated the accusations made by him against the Democratic Alliance for the Betterment and Progress of Hong Kong without demanding the withdrawal of his false allegations and condemnations. How on earth could he so shamelessly smear others?

What is the problem for us to exercise our duties and scrutinize the Bill as legislators? I simply remind Members that we should not accede to the proposal as I think that the practice does not conform to the principle of proportionality. But then he smeared us, claiming that we solely aim to protect our pecuniary interests. Dr KWOK Ka-ki, what else is more extreme than this? Does he know that he has offended many Members? He has offended those Members who have earnestly scrutinized the Bill and presented their opinions. He is offending us, but I do not require him to apologize.

Chairman, I wish the audience for this live meeting broadcast can distinguish right from wrong. The Council can properly fulfil its functions, but the prerequisite is that Members present their arguments based on facts. Members can debate rationally if they cannot concur with each other. In fact, this is the way the Council should operate. As I have said before, it is fine that Mrs Regina IP holds differing views on this group of amendments relating to the inspection of private premises for evidence collection. She has simply cited her points and reasons for discussion, unlike Dr KWOK Ka-ki who pursued his objective by means of fault allegations and smears, even labelling others groundlessly. If the Council repeats these episodes every day and conducts its business in the opposition camp's way, I think it is difficult for the meeting to properly go back to the right track, not to mention improving the quality of discussion.

Chairman, again I reiterate that we support the Bill in general. As regards the first group of amendments, we will offer our support too as it excludes those staff who are truly responsible for nothing else but delivery, as well as those employed by the courier companies. I do not think they should be held responsible. This is the content of the first group of amendment, which has our support. For the second group of amendment, we have made ourselves clear in explaining why we reject it. However, we must not allow Dr KWOK Ka-ki to make false accusations against us, claiming that I am just trying to defend sectorial interests or pecuniary interests, etc. Simply speaking, this offence is

not very serious after all. We have to take into account the factor of proportionality when deciding whether to allow law enforcement officers to enter private premises for evidence collection. I believe we should maintain the threshold. If the topic today is drug selling or terrorism, we will have no alternative. Yet the offence under discussion today is not the case, and we honestly have not found many such activities in residential premises today. We genuinely found no such cases. Therefore, the reason is simple, and we reject the Government's second group of amendment which proposes that law enforcement officers be allowed to enter private premises to collect evidence.

Chairman, I so submit.

MS ALICE MAK (in Cantonese): Chairman, I finally understand how one stone can whip up thousand waves. Just look at how many Members have requested to respond to Dr KWOK Ka-ki after he spoke just now.

It is funny. In this Chamber, as Mr Holden CHOW just said, whatever we do is wrong in the eyes of the pan-democrats. Just like now we are seriously debating a bill, but someone outside says we are filibustering and hindering the progress of the meeting, and wonders which Agenda item we want to block. After he spoke, we cannot suppress ourselves. We need to speak.

First, I wish to speak on the two groups of amendments proposed by the Government. The Hong Kong Federation of Trade Unions ("FTU") will support the arrangements set out in the first group of amendments. Regarding the second group of amendment, we have considered and discussed them for a long time. Frankly, we only ended our discussion this morning. We reach a consensus that we cannot support the second group of amendment. The reason is obviously not the one Dr KWOK Ka-ki wrongly accused us of just now. He said that we oppose the amendments because of the interests of the industry. How could we have any interests from the industry in this Bill? In fact, we have considered the legal views. I bantered here that Mr Holden CHOW has done a better job on lobbying this time than the Government has. I were here last evening arguing with Mr Holden CHOW and then I listened to him when he spoke again. I think what he said is more convincing than what the Government said. I thus think that the Government should seriously consider learning from Mr Holden CHOW on improving the drafting and lobbying work of a bill.

Why did I say just now that we had an argument? Because some FTU Members agree with Mr Holden CHOW's argument. They question whether we should allow police officers to enter a domestic premises so easily, while some other FTU Members, including me, are more conservative. We think that the criteria permitting entry into domestic premises are not lax. A police officer has to obtain a search warrant from a magistrate before he is allowed to enter a domestic premises. We thus think that we need not over-worry. We had a long argument. I do not know if these amendments can be passed. Even if they will be passed, I hope that the authorities will expeditiously review the situation after passage of the Bill to assess the sales of alcoholic beverages and ascertain whether there is anything of concern happening in domestic premises, and if there is, the authorities should expeditiously consider introducing legislative amendments and conducting reviews.

I mentioned just now that many Members rose to speak in retort to Dr KWOK Ka-ki after he spoke. I remember Mr Tommy CHEUNG mentioned just now the scrutiny of the amendment bill on medical registration a few years ago. He asked Dr KWOK Ka-ki whether he had received any complaint from the Medical Council of Hong Kong ("the Medical Council") and why Dr KWOK looked so worried. I can provide some information here. I cannot find whether he has received any complaints from the Medical Council. But if we search on the Internet, we can find a patient took civil procedures against him. I do not know the outcome of the proceedings because I do not want to target at him and I will not follow the progress of the case or bother whether he was prosecuted in the end. Unlike Dr KWOK Ka-ki who targets at the person, not the matter, we target at the matter, not the person.

Hence, I hope that in this debate we can clearly set out our justifications, so that the Government can learn from this experience. In fact, the Government should have fully grasped Members' views at the Committee stage. As I said just now, I hope that no matter the second group of amendment is passed today or not, the Government can expeditiously conduct a review after passage of the Bill.

As many Members have just said, Dr KWOK Ka-ki just wants to make use of his speech to blow things out of proportion. I call on Members not to get angry. If we listen carefully to his speeches, we will find that his speeches are all the same. He criticizes the pro-establishment camp and call us the royalists. He says nothing else. When we support the Government, he calls us making blind support. When we do not support or listen to the Government, he says that we obviously have a clash of interests. This is the way he thinks. So why do

we bother to get angry? You lose if you react too seriously, so Members need not get angry which would hurt your health.

I wonder if Members notice that he has poor vocabulary. When he criticizes other people, he has no words except the few adjectives like shameless, royalist, etc. I do not know why Members get so involved with his speech. I am always lucky. I do not quite understand what he is saying or listen to what he says. But I notice Members take his speeches so seriously and cannot wait to retort him. I thus wish to use this one-minute speaking time to call on pro-establishment Members not to get so serious with him. This will only hurt yourself and it is meaningless. Please do not get so angry. We can concentrate on the discussion. Continue to discuss this ordinance. I hope that after the passage of the Bill today, no matter the second group of amendment is passed or not, the Government will expeditiously conduct a review.

I so submit. Thank you, Chairman.

IR DR LO WAI-KWOK (in Cantonese): Chairman, Ms Alice MAK said she was lucky enough to have missed Dr KWOK Ka-ki's speech just now. My luck was unfortunately not with me. I have heard it and cannot help but respond to it now. Those comments made by Dr KWOK Ka-ki a moment ago were definitely unacceptable to me as they were groundless accusations, or even nonsensical remarks.

Chairman, I have no idea that selling alcoholic liquor in domestic premises is a profession in Hong Kong. Less do I know which Member in the Chamber is representing this profession and thus is required to speak for it. But Dr KWOK Ka-ki did commit a number of errors when accusing colleagues from the pro-establishment camp of objecting the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") out of self-interest.

First of all, colleagues from the pro-establishment camp, including me, all speak in support of the Bill. We only raise our objection to the second group of amendment in which an inspector is allowed to collect evidence in domestic premises. Why do we raise objection to it? The suggested amendment will cause nuisances to the people. On top of this, we really do not see the sale of alcoholic liquor in domestic premises as a profession, other than those of individual cases.

Furthermore, if offences are indeed committed within domestic premises, the Police are fully empowered to enforce the law under existing mechanism, as it can obtain a search warrant from the court. We thus have clearly expressed our opinions on the second group of amendment and a conflict of interest absolutely does not exist.

It is rather strange that the speech made by Dr KWOK Ka-ki today deviates substantially from those he usually makes. He is considerate and trustful of the Government, pointing out clearly that the Government will enforce the law with great care even after the passage of the Bill. It will bring benefits to the people if Dr KWOK Ka-ki and his colleagues could adopt the same positive attitude towards the Government and law enforcement officers when enacting other bills in the future. But I believe he made such remarks just now only to smear us. I will neither take them seriously nor believe that he actually trust the Government will enforce the law in a prudent way.

Chairman, I so submit.

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

MR CHEUNG KWOK-KWAN (in Cantonese): Chairman, just now I was at my office listening to Members of my side speaking in the Council and many of them were resentful, including Mr Holden CHOW. I think Members know that when we speak at the Council, we will not fabricate facts or be unreasonable. This is the basic principle of a Member. In particular, my understanding is that being a doctor in Hong Kong, one is duty-bound to treat patients, but this does not mean that the doctor can hurt the feelings of Hong Kong people. I expect every doctor in Hong Kong will do so. Then, this will be a blessing to Hong Kong people.

Dr KWOK Ka-ki criticized just now that Members of the pro-establishment camp support the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") for private interests. I agree that we truly support the Bill for interests, but for the interests of Hong Kong people; otherwise, what are we doing here? Our contention now is whether the Bill will be something good or something bad to Hong Kong people. This is what we are anxious about. Before the Bill was considered at this Council meeting, Members of the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") already had several meetings to

discuss whether we should support some of the proposals in the Bill. We even had a prior meeting with the Government to exclusively discuss this issue. We want to know if the proposed arrangement is conducive to Hong Kong people or not. Hence, Dr KWOK Ka-ki is correct in saying that it is about interests. This is correct indeed. But he missed a few words. It is the interests of "Hong Kong people".

Chairman, there is a point in the proposed amendment Mr Holden CHOW has repeatedly stressed. Our greatest worry is that inspectors will be allowed to apply for a search warrant from court to search domestic premises. We very much support the overall spirit, or direction, of the Bill, that is drinking liquor will bring negative impact or harm to small children and youngsters. This is what we are most concerned about and DAB certainly supports the Government to do more in this regard.

However, Chairman, as I said just now, we are now talking about whether the legislative amendments proposed this time should empower inspectors, who are not police officers but officers discharging food and the environment-related duties, to apply for warrants to search domestic premises. It is not about whether it is right or wrong to do so. We need to see whether this authorization will bring suitable outcomes to society. We can imagine that every household will be nervous about authorizing government officers to enter domestic premises to conduct searches. If people know that the Government has this authority, they will certainly listen attentively to the extent they will be affected. Of course, if the Government has launched a policy that everyone in society accepts as important and urgent, it is a good policy.

But Chairman, we notice something in this matter. First, has selling liquor to minors in domestic premises become a common social problem or phenomenon? If this is something frequently happened around us and it has become a social problem, it is indeed a top priority task that inspectors be authorized to enter domestic premises to conduct searches. But has this really become a social problem? Or, is it that the Government wants to lay down a measure first, so that it will have the tool to obtain authorization when this becomes a real problem in the future? If the latter is the case, I hold that the Government may have put forth this measure too early and the authorization has too many negative impacts. This is precisely what DAB, or Mr Holden CHOW has questioned: whether the policy initiative is proportionate to the seriousness of the problem. We have a big question about this.

The Bureau says that the authorization is not an arbitrary and subjective decision. There is an objective mechanism, requiring an inspector who wishes to apply for a search warrant to go to a magistrates' court to make an application with a magistrate. The Bureau thus reassures Members that the application is subject to statutory monitoring before the inspector can successfully enter and search a domestic premises. However, Chairman, I am a lawyer myself. We all know the procedure required to apply for a search warrant from a magistrates' court. One has to know the procedure before he knows whether this is an effective mechanism. This will prevent situations unwelcomed by the public from happening.

First, applying for a search warrant is an unilateral procedure. When the enforcement department of the Government or the relevant Bureau receives a lead or information from a compliant, and is of the view that someone violates the law in a domestic premises, it can go to the court to apply for a search warrant. This is an unilateral application. When the magistrate listens to the justification of the application, the other party (i.e. the owner of the domestic premises that will be searched) is unaware of the application, so he cannot go to the magistrate to raise his reasonable doubts against the justification raised by the applicant. Hence, the magistrate can only make a ruling on the application based on the information of one of the parties. This information is often very similar, such as saying that the applicant has received information or a lead indicating that someone is doing something illegal in a domestic premises.

Chairman, if you were the magistrate, in such a situation, would you permit the warrant application and allow the authorities to conduct investigation? This is not about initiating a prosecution or convicting someone of an offence, but about whether the inspector should be permitted to conduct an investigation. When one is put in the place of the magistrate who has limited information to make the decision, he probably would approve the application and issue a search warrant for the authorities concerned to conduct search and investigation. This is the natural thing to do. Precisely because of the high success rate of search warrant application made by government departments in the past, we know whether the mechanism is truly that effective in monitoring the warrant application procedure, as the Government has so claimed, and that the public need not worry about it. Chairman, I have great reservation about this.

Second is what the Administration intends to use the search warrant for. To date, the authorities are still unable to convince me on this point. The

relevant amendments under discussion now are about allowing inspectors to enter domestic premises to find if anyone violates the law against the sale of alcoholic beverages to minors.

The problem is, Chairman, when an inspector enters a domestic premises with a search warrant, what will he find from the search? I have asked the authorities and they say that the inspector will most probably see liquor in the domestic premises, and second he may see a few young people. But will he see someone selling liquor to the young people? And if the inspector finds liquor in the premises together with a few young people there, does this constitute valid evidence to prosecute the owner for selling liquor to minors? The Administration does not think so, saying that it will take away the computer to see if there is any transaction records stored in it.

Frankly, I do not know the number of minors in Hong Kong who can apply for a credit card. If young people at the age of 14 or 15 have credit cards, they may use the credit card for buying liquor and then leave a transaction record. This can become evidence, but is this the actual situation in society now? Will minors use credit cards to buy liquor? What record will they leave on the computer? If they pay by cash, the inspector will find some cash, but is this sufficient to prove that someone has committed an offence? Selling liquor is not an offence, only when the liquor is sold to a minor, will it become an offence under the relevant amendments now proposed.

If that is the case, can the mechanism we now wish to establish, i.e. the mechanism to apply for a warrant to search domestic premises to prevent the sale of liquor to minors achieve the aim of the policy? To date, the Administration is still unable to convince me that the mechanism can achieve this aim. The amendments only serve to make the ordinance look more complete because non-domestic premises are already under regulation and it seems not complete if we do not put domestic premises under regulation as well.

However, if we give the Administration this authorization, but it cannot achieve its intended policy result or objective, why do we have to give it the authorization? We have to bear the relative consequence if the Administration which has our authorization to enter domestic premises to conduct searches fails to achieve its policy objective and the search will infringe on people's privacy. This is not a social problem, but rather, when the authorities are allowed to enter domestic premises to collect evidence but they fail to find any, I will have to

consider why I give the Administration so much power in the first place. If I support this amendment, I will owe Hong Kong people an explanation. Hence, Chairman, I think when the Administration makes a response later, it must convince Legislative Council Members on this point, telling us why we should support this amendment. This is very important.

Of course, as I have stressed, we do not mean to discredit the effort the Administration has made on the Bill. We support it. As I said in the beginning, we think the Administration has done the right thing in protecting youngsters from the harm of alcoholic beverages on their health. Its effort deserves our affirmation and applause. But in the latter stage of the scrutiny in the Bills Committee, the Administration proposed this amendment I just mentioned, i.e. the application of search warrants at court. We hold that the proposal cannot achieve any objectives we want, nor can it resolve any extensive social problems that are yet to appear.

Chairman, I remember when I studied public policies, a professor said that if we wish to do research on a public policy, we must first assess whether this is a systemic social issue and whether it is worthwhile to use public policy to resolve the issue. If this issue is yet to be a recognizable problem in society, I hold that we should be more prudent in deciding whether we should give the authorities so much power now. I hope that the Secretary can give us a convincing reply later, so that Members will consider whether they should support this amendment. However, Chairman, I can tell the Secretary that at this juncture DAB is still unconvinced on this point and we hope that the Secretary can say more in the reply.

Chairman, I so submit.

MR WONG TING-KWONG (in Cantonese): Chairman, DAB has been calling a spade a spade all along.

The proposed amendments under clause 7 of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") aim to regulate the sale or supply of intoxicating liquor in the course of business. During our prudent, careful and in-depth discussion, we have adopted a very responsible attitude in considering the proposal on collecting evidence in residential units with a search warrant. We are in marked contrast to a certain Member, and I wonder what has blinded

his eyes. Here, I must particularly point out that Dr KWOK Ka-ki sounded very pathetic in his speech just now. I will not use the word "shameless". What do Members think about his quality of policy deliberation?

We are deliberating policies here, and we are engaging the Administration in a thorough discussion on the relevant policies while expounding on our grounds. Members should not forget that what Dr KWOK Ka-ki referred to ... Some pan-democratic Members (including Mr CHAN Chi-chuen) also hold dissenting views on the amendments which have been discussed throughout the period since yesterday. This shows that Dr KWOK Ka-ki honestly sounded very pathetic in his speech. I do not know why he had to smear those livelihood-related projects and bills to this extent.

I remember that during our discussion some time ago on the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017 relating to protecting ivory, I made an utterance in my speech—no elephant tusks can grow out of a dog's mouth. This analogy is quite interesting. While Dr KWOK Ka-ki made specific mention of DAB, I will only name him instead of his political affiliation here. I do not agree to Mr Holden CHOW's assertion that he should withdraw ... Well, apologize? No, we had better leave behind a poor image of him forever and a record of his words. What is his intention of doing such deplorable deeds in the Legislative Council?

Chairman, regarding the amendments under clause 7, we have already held a detailed discussion, and I have also expressed my views. As rightly said by Ms Alice MAK, "the stone he tossed has triggered massive waves". His conduct has aroused public agony, and this is why I have come downstairs to the Chamber with the specific intention to speak, so as to show my sympathy for Dr KWOK Ka-ki and repugnance for his speech.

Thank you, Chairman.

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

MR CHAN HAN-PAN (in Cantonese): Chairman, the earlier speech of Dr KWOK Ka-ki has given me the feeling that he is such a poor political speculator that politics is all which is left of him. The Dutiable Commodities

(Amendment) Bill 2017 ("the Bill") is obviously a bill relating to people's livelihood. But he could nonetheless drag in the issue of enacting legislation to implement Article 23 of the Basic Law and other people while also criticizing other Members for only showing concern about the trade's interests and being money-oriented.

In fact, during our scrutiny of the Medical Registration (Amendment) Bill 2016 ("the Medical Registration Bill"), Dr KWOK Ka-ki and a former Member paid no heed to the very survival of people. The Medical Registration Bill merely aimed to add a few lay members, including representatives from patients' groups, so as to slightly liberalize the composition of the Medical Council of Hong Kong. But Dr KWOK Ka-ki staged a filibuster, thus causing the "death" of the Medical Registration Bill. He even opposed the proposal of allowing non-local doctors to practise in Hong Kong—under Limited Registration only—as a means of alleviating the shortage of health care manpower in Hong Kong.

As other Members and I observed, his personal interests would sustain the greatest impact if the amendments under the Medical Registration Bill were passed. His personal interests were involved. As we learnt from the Internet and the press, he was once prosecuted. But certainly, nobody knows the outcome except him himself. Rumour had it that the case was settled out of court at the end of the day. I also hope that he can come downstairs to the Chamber and explain to us.

We are now scrutinizing this amendment which aims to prohibit the sale of alcohol to children aged below 18. Mr Holden CHOW, Mr WONG Ting-kwong, other DAB Members and I share a common thought. We hope to adopt all possible means to prevent the purchase of alcohol among children aged below 18, or the deliberate sale of alcohol to anybody by some businessmen for the purpose of making profits. We have no dispute in this regard. Even Mr SHIU Ka-fai, a representative of the trade's interests who has spoken up for the trade, has categorically stated that the trade does not oppose this Bill which is presented by the Government with the aim of prohibiting the sale of alcohol to people aged below 18. Therefore, I fail to understand how Dr KWOK Ka-ki has come to develop the mentality that politics is all which is left of him. He left after "firing a few shots" here in the Chamber. At present, no opposition Members are present in the Chamber, and we can only see pro-establishment Members here. By this, I mean that they were all present when we discussed

political issues earlier on. But when we discuss people's livelihood, they have all hastened to leave the Chamber.

Let me return to the amendments to the Bill. One proposal suggests that inspectors or authorized persons should be allowed to conduct search in residential units. Actually, it concerns transactions involving the sale of alcohol by a businessman to a person aged below 18. The businessman will violate the law in the process, and a transaction process must be involved as a prerequisite for his conviction. In that case, why should law enforcement officers be allowed to enter residential units? Suppose I am an inspector. Why do I find it necessary to enter Mr Holden CHOW's home? Will I as an inspector be held responsible for any loss of properties in his unit? As I said yesterday, I am more concerned about the law enforcement action taken by authorized persons, namely inspectors. Will they receive training and therefore know the kind of evidence which should be collected upon entering a residential unit? How will the authorities recruit such people?

Another question is this. Will they be able to cope with the environment in a residential unit if we now pass the amendment to confer on them the statutory power of entering residential units? This is one question. Police officers must be granted a search warrant in order to conduct search in a residential unit. They may use an appropriate degree of force, and they already expect that emergency situation may arise. But will those inspectors be authorized to handle problems with force when taking regulatory actions? No. We merely authorize them to enter residential units, without protecting their personal safety. Isn't this very absurd?

What I mean is this. Suppose a person keeps a collection of wine in a residential unit where a group of youngsters is also present. A law enforcement department suspects that someone has violated the law, so some inspectors enter the unit, but they know nothing whatsoever about the environment in the unit. In that case, those inspectors ... We are now asked to confer a statutory power on them. If they do not take law enforcement action, the Office of The Ombudsman in Hong Kong will criticize them. But if they do so, they may be caught in danger anytime. What should they do? Will they end up having to summon the help of the Police and enter the unit together? If this is the case, we should rather empower police officers instead of inspectors to enter residential units. After examining this arrangement, DAB Members think—we have studied the Bill really very carefully—that this additional power is unnecessary.

We hope that Members in the Chamber can examine the question of whether it is really necessary to empower inspectors to conduct search in residential units.

Some Members have asserted that we should consider the purpose. So, what is the purpose? Why is it necessary to conduct search in residential units? Is such search aimed to find out if there are any alcoholic drinks in a unit? Even if alcoholic drinks are really found in his unit—we can definitely find two bottles of wine in Mr Holden CHOW's home—together with a child aged below 18, then so what? What can this prove? Can this serve to prove that someone has sold alcohol to this child? Impossible. It is because there are bound to be other people in ones' home. So, the Government's arguments cannot stand to reason. What do inspectors expect to find in a residential unit if they are empowered by the Bill to conduct search there? The Government may sound a bit more reasonable if it argues that inspectors cannot take law enforcement action without this power. But we have not heard this point so far. And, as rightly asserted by Mr Holden CHOW just now, the Government has failed to address our queries or give us a clear explanation on this matter.

Our observation can be this thorough. But it is impossible for Dr KWOK Ka-ki to notice all this because he is so poor that politics is all which is left of him. In any case, whenever political issues are discussed, he will use the very same script which he has used for many years here. Let me draw Members' attention to Dr KWOK Ka-ki. I have worked with him over the past five years. Whenever I listen to his speech in this Chamber, I notice that he will basically repeat several things in his speech, such as criticizing others for being shameless, unprofessional or money-oriented. He will repeat these criticisms without discussing anything else. He will level vicious reprimands at public officers and other political enemies without any exception. All along, I do not respect such people very much. In my view, it already suffices if he can try to convince others with justifications. If he fails to convince others with justifications or put forth any justifications at all and only directs vicious reprimands at others, this shows that he is not a good Member who is serious about his work. If he were a good Member, he should have given consideration from the angle of people. Speaking of the Medical Registration Bill, for example, a good Member will speak up for the people and give consideration from their perspective.

This amendment proposed by the Government seeks our empowerment. When we scrutinize this amendment here, our purpose is to consider whether the Government should be vested with this power. Even if we agree to confer this

power on the Government, we must still examine the matter very carefully. This time around, we have found that it is actually unnecessary to confer this power on the Government. This explains why we have put forth our viewpoints over and over again here. In my view, our viewpoint is justified because the Government has so far failed to explain why it is necessary for inspectors to enter residential units and their search targets. Besides, even if they can find alcohol or youngsters inside, then so what? Is it their intention to prove that someone has sold alcohol to them? Actually, at the very moment when inspectors enter a residential unit after opening the door, people in the unit will certainly turn their attention to those inspectors as their very first reaction to see why they try to enter the unit instead of continuing with the transaction. I wonder what evidence can be found by inspectors if the people in the unit stop all their activities. Do they think that they may find a ledger with records of buyers' names? Or, do they think that they can find transaction records and receipts? Their efforts will be futile.

As I mentioned yesterday, the Office of The Ombudsman in Hong Kong has likewise criticized the Government for not so willing to conduct undercover operations over all these years. In the case of catching taxi drivers for overcharging passengers, for example, very few undercover operations have been conducted. Cases of overcharging passengers or refusing hire have occurred from time to time. But how often can they arrest the taxi drivers involved? To the Government, undercover operations are manpower-consuming. They will not conduct such operations under normal circumstances. The Government's amendment proposes to empower law enforcement officers to conduct undercover operations in not only shops but also private residential units. I really doubt the effectiveness of such operations.

Regarding this amendment, I hope the Government can give us a clearer and more thorough explanation later on and tell the public why it wants to be empowered to enter residential units and also the procedure involved. Will people fear that they may violate the law any time after the passage of the Bill? We must also sort this out. What is the purpose of entering residential units? The Government must also tell us.

Chairman, I so submit.

MR TOMMY CHEUNG (in Cantonese): Chairman, just now, Ms Alice MAK said that she was lucky as she had missed Dr KWOK Ka-ki's speech. In contrast, Ir Dr LO Wai-kwok said that he was unlucky as he had listened to his speech. My view is different from theirs because when I left the Chamber just now, I heard Mr Charles Peter MOK smear us outside the Chamber and criticize us for filibustering. If he hastened to talk nonsense without listening carefully to the speeches of pro-establishment Members in the Chamber today, I do not think I need to wait until the Year of the Dog next year—it is actually the Year of the Dog now as "Spring Commences" has passed—before dismissing his reprimands as "dog talks". But in my view, this expression should not be used in this Chamber as it does not sound decent.

Precisely for this reason, I also wish to give a reply on the issue of filibustering. The quorum for the meeting of the committee of the whole Council is 20 Members. If we had intended to stage a filibuster, we could have followed the example of pan-democratic Members and all left the Chamber, leaving only me behind to request a quorum count. Then, the meeting would have to be aborted due to a lack of quorum. At least 20 of them should stay behind in the Chamber, and if they do not want to see an abortion of the meeting, why should they refuse to stay behind in the Chamber? I can guarantee that less than 20 of them will stay behind in the Chamber. It can be seen from this that we have no intention whatsoever to stage a filibuster. Only Dr KWOK Ka-ki among them has delivered a speech in the Chamber. Even though the Secretary wants to solicit his support, I believe the Secretary also found his speech to be unpleasant to the ear.

My point is different from those of Ir Dr LO Wai-kwok and Ms Alice MAK. One of them said that he was unlucky while the other one asserted that she was lucky. I will not say whether I was lucky or not. I only think that Hong Kong people are honestly unlucky as such a Member has been elected to office.

Thank you, Chairman.

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

(No Member indicated a wish to speak)

CHAIRMAN (in Cantonese): If not, I now call upon the Secretary for Food and Health to speak again. Secretary, please speak.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): Chairman, first, I would like to thank Members for presenting their valuable opinions and viewpoints on the amendments last evening and this morning. I also wish to reiterate that amendments to clause 7 of the Dutiable Commodities (Amendment) Bill 2017 ("the Bill") are moved with a view to facilitating future law enforcement, as well as in response to suggestions and considerations raised by the Bills Committee. Of course, we appreciate Members' concern, especially the concern about the second group of amendment. It seems that the first group of amendments is considered fine and reasonable, as well as worthy of support.

Some Members have mentioned their wish that future bills can undergo thorough discussion or explanation in relevant Bills Committees before they are submitted to this Council for discussion. I would like to repeat that the amendments concerned have already been scrutinized thoroughly by the Bills Committee. Here, I wish to thank Chairman Mr YIU Si-wing and the members of the Bills Committee for the many opinions given to us. The Bill and the amendments submitted to the Legislative Council at present are the outcome of the discussion then. Moreover, the Bills Committee has raised no objections to the amendments, and the Second Reading debate was resumed with the Bills Committee's support for the Government's amendments.

After the Bills Committee finished its scrutiny, some Members queried if inspectors should be allowed into domestic premises for law enforcement. This arrangement did not arouse any controversies during the Bills Committee's discussion, as they arose only after the Bills Committee's scrutiny. The House Committee also supported the Government's submission of the Bill and the resumption of the Second Reading debate. There being no precedent in the Legislative Council for the Government to withdraw its amendments after securing the support of the relevant Bills Committee, the Government suggests that the amendments be divided into two groups, enabling Members to, via their votes, expressly demonstrate their stances again on the amendments which seek to grant inspectors the power to enter domestic premises for law enforcement purpose with search warrants issued by court.

In the remaining time, I will respond to Members' viewpoints and concerns. First, the overall intent of the Bill is to protect the health of adolescent; second, as said by Mr Tommy CHEUNG, under the ordinance relating to liquor licence, any person under the age of 18 years is no longer allowed to drink any liquor on any licensed premises in Hong Kong. That said, a loophole is found in the existing laws as persons under 18 years old can buy liquor at retail outlets. We believe it necessary to close the legal loophole, thereby introducing this legislative amendment. This is the main premise of the exercise.

Mrs Regina IP has just asked me to explain more about the health hazard of drinking, while believing that the difference in opinions among Members probably has something to do with value judgment. So, I will briefly illustrate the immediate and long-term effects of drinking. Many Members have talked about this earlier too. True, the pattern and amount of drinking may differ among different persons, yet excessive alcohol intake will impair brain function and will possibly lead to acute alcohol poisoning, or even death. The International Agency for Research on Cancer under the World Health Organization ("WHO") has already classified alcohol as a Group 1 carcinogen. These are the overall effects of alcohol consumption.

Why are we particularly concerned about adolescents? Alcohol does bring about adverse effects on adolescents' health. There are consequences for both individuals and society in terms of diseases, accidents or bodily harm, etc., that may result. In the case of adolescents, as their brains are still developing, alcohol will produce more severe effects on the body, mind or social interaction when compared with the effects on adults. Members all know this very well. We have some figures for Members' reference. Among the new alcohol treatment cases received by the Hospital Authority over the last five years, 50% to 70% of them involved patients whose age at first alcohol use was below 18 years old, and that 40% to 60% of the patients consumed alcohol for the first time before they reached 16 years old. This is a pressing problem that we cannot afford to neglect.

Surveys undertaken by the Department of Health ("DH") in recent years have shown that some adolescents, especially primary and secondary students, have experience of alcohol consumption, or even heavy consumption. The number has obviously shown an upward trend. Why do we care so much about the sale of liquor at retail outlets? Some surveys have indicated that, while primary students and young people have many different access to alcoholic

beverages, around 10% of the primary students and around 30% of the secondary students brought these beverages by themselves. This demonstrates the gravity of the legislative amendment.

In connection with the present amendments, especially the second group of amendment which are more controversial, we have excluded domestic premises from the definition of "distribution point". However, we need to be capable to deal with circumstances where domestic premises are used for selling or providing alcoholic beverages to minors illegally, or for hiding evidence of criminal acts, therefore we propose that search warrants will only be issued when magistrates satisfy that there is reasonable suspicion in response to reports made by inspectors under oath. Search warrants issued magistrates will empower inspectors to enter the premises to search and collect evidence of offence under the new Part 5. Therefore, it is not true that search warrants are issued unrestrictedly or unrestrainedly.

True, as Mrs Regina IP, Mr YIU Si-wing and many other Members have said, there are similar provisions under the law at present which allow law enforcement officers to enter domestic premises with a warrant. While the Government has checked various ordinances, the Department of Justice has also offered its assurance in this respect during the discussion held by the Bills Committee. If not expressly stated in the laws, inspectors cannot apply for search warrants to enter domestic premises for law enforcement, otherwise it will create an obvious legal loophole.

Certain Members, such as Mr CHAN Han-pan, are concerned about the situation when some families with children happen to have liquor at home. We would like to reiterate that the Ordinance in question applies to the provision of liquor in the course of business, and possession of liquor in domestic premises does not constitute an offence.

Moreover, I am thankful for the numerous valuable opinions given by Mr Holden CHOW, which have prompted us to better consider the issues that we have to deal with when we implement or review the laws in the future. We appreciate the question of proportionality and necessity raised by Mr CHOW. Mr CHAN Chi-chuen has mentioned this too. We repeat that we understand Members' worry about granting too much power to inspectors. However, the Department of Justice and our colleagues have thoroughly considered the issue, and believed that the provisions are appropriate. Furthermore, we have struck a

balance in the overall legislative amendment. The purpose of the Ordinance is to prohibit, based on evidence or reasonable suspicion, the provision or the sale of intoxicating liquor to minors in the course of business. I repeat: the expression "in the course of business" is the key point here. The law will not apply to cases other than those which happen in the course of business. We hope to lay down relevant and appropriate guidelines in relation to the overall enforcement of the law in this regard.

We have also noticed many Members' idea that we can perhaps amend the legislation after the problem deteriorates, as they believe the situation is not really that critical at this moment. As far as I have heard, quite a lot of Members have said so. On the contrary, some Members who support the current legislative amendment have argued that it is irresponsible on the part of the Government if it does not plug the loopholes or carefully consider the provisions despite being aware of the problems in the course of scrutiny. In fact, similar situations usually happen when we scrutinize other laws. We mainly handle the issues depending on the severity of the problems and try to find a balance with a view to maintaining the integrity of the law on the one hand, while recognizing the effects produced by the provisions on the other.

Mr CHOW has also mentioned his hope that the Government will focus its law enforcement effort on the sale of liquor in street stores or retail outlets, instead of on domestic premises. Actually, we will emphasize on street stores or retail outlets where liquor is on sale and focus on the sale of such commodities to people under 18 years old. However, the integrity of the law will be subject to question if we do not enforce the law in domestic premises as well. We empower inspectors to apply for search warrants when there is reasonable suspicion that someone may commit, in domestic premises, an offence under the new Part 5, as we cannot exclude the possibility that someone may make use of a domestic premise to run a business which sells or provides intoxicating liquor to minors. I repeat, the legislation will focus on acts carried out in the course of business. The power will only be exercised when necessary, unlike what Members may have misunderstood in which inspectors can arbitrarily enter and search any domestic premises.

Some Members have wondered if these cases occur frequently. As Members may know, given the ubiquity of upstairs shops these days, we cannot rule out that someone may sell or provide intoxicating liquor in domestic premises after these premises no longer fall within the definition of "distribution

point". Throughout the scrutiny process, Members have kept raising their concern over inspectors' powers. I reiterate that the proposals under the Bill will serve to restrain and balance the powers. For example, it is stipulated that the power to enter and inspect a distribution point can only be exercised at a reasonable time. Even in case of reasonable suspicion that someone has committed an offence under Part 5, inspectors can only seek more information or exercise the power when they consider that the premise concerned may contain evidence or information in relation to such an offence, or when inspectors consider it possible for them to carry out their duties under Part 5. Therefore, these measures can provide checks and balances between inspectors' powers to investigate a new offence under the Bill and the protection of privacy in domestic premises. We believe the powers given are proportionate and necessary. Moreover, similar provisions are found in other ordinances, such as the Noise Control Ordinance, Waste Disposal Ordinance, Chinese Medicine Ordinance, Personal Data (Privacy) Ordinance and Film Censorship Ordinance, etc.

We must plan for the future when we enact a piece of legislation. Therefore, by way of the amendments to the Bill, we have excluded domestic premises from the definition of "distribution point" which inspectors can enter and inspect at a reasonable time. In this respect, we have already found a balance as far as the problem mentioned above is concerned. As mentioned by Mr Steven HO, the Government will only apply for search warrants on sufficient grounds, and the court will grant such warrants only when it is satisfied that there is reasonable suspicion.

I wish to bring up the question of law enforcement as Members attach great importance to this subject, asking that we can talk more about this. While drafting guidelines on law enforcement, the Government will take into account various potential problems that may arise in the course of real life business practice, so that we can optimize the guidelines as far as possible. We are grateful that Members have constructed many possible scenarios which have widened our scope of consideration when we lay down the guidelines. Though inspectors of DH will enforce the law in the light of the actual situation, the lawless people will always have new tricks. So, we will try our best to allow for all scenarios and devise concrete and effective measures.

Certain Members are thinking about the picture of an inspection of a domestic premise. In case of complaints received by DH about alleged sale of liquor to minors in domestic premises, or other similar complaints, we will take a

statement from the complainant, and inspectors will collect further evidence, such as searching for related information online, including advertisements. Inspectors will only apply for search warrant from a magistrate after collecting adequate evidence to enter a domestic premise for law enforcement. Likewise, when considering the application, the magistrate will have to ensure that the evidence can justify the issuance of a search warrant. In general, magistrate will take into account factors such as whether the evidence is sufficient, whether the relevant law is breached and whether the evidence can prove the offence, etc. Search warrants be issued only when magistrates are satisfied that there is reasonable suspicion about certain things inside a domestic premise that may very possibly serve as evidence of an offence under Part 5.

Various Members have brought up the issue of "covert operations" and suggested the Government to conduct these operations. Suppose we truly do so, we will then have to hire minors to participate which may involve sensitive problems like labour protection or the safety of young people joining the task. So, we must think carefully. Of course we encourage the public to provide information to DH so that DH officers will inspect the premises concerned and take law enforcement actions after receiving the reports or complaints.

A lot of Members are concerned about the manpower or process of law enforcement. DH will set up an Alcohol Enforcement and Publicity Unit. We will allocate resources to set up an enforcement team to inspect and monitor various selected retail outlets, including shops and licensed premises which sell intoxicating liquor, thereby ensuring compliance. Furthermore, we will handle complaints and conduct surveillance in connection with remote distribution. DH will also work out enforcement guidelines and strategies to ensure effective law enforcement. Furthermore, teams will be established to provide back-end support for tasks including prosecution and administration. We will also carry out publicity and education.

Mr CHAN Chi-chuen has mentioned the possibility that evidence of sale or provision of intoxicating liquor to minors may be stored in different domestic premises, and asked how investigation would be conducted then. This situation actually demonstrates that inspectors need to have certain powers to apply for warrants, if necessary, in order to enter domestic premises for inspection and collection of evidence.

Law breakers may use domestic premises as the point of selling alcoholic beverages to minors online, so inspectors have to enter domestic premises to collect evidence on the basis of reasonable suspicion under the court's authorization. This step is a response to Members' concern over the difficulty of law enforcement and evidence collection against remote distribution. If we take back the powers granted to inspectors for entering and searching domestic premises under the proposed regulation 44A, law enforcement against remote distribution will become much more difficult.

We understand the worries voiced by Mr Tommy CHEUNG and Mr SHIU Ka-fai. They have queried if storing large quantity of liquor in a domestic premise will constitute *prima facie* evidence of selling liquor without a licence, which will then allow inspectors to enter the premise by reason of having reasonable suspicion. I would like to clarify that selling alcoholic beverages does not require a licence at present, nor does the Bill propose the introduction of a licensing regime for sale of liquor. Mr CHEUNG and Mr SHIU need not worry, as the purpose here is to prohibit the sale of intoxicating liquor to minors in the course of business.

Again, I repeat, the power to enter domestic premises must be granted by a magistrate in advance, and search warrants will only be issued after the magistrate is satisfied that there is reasonable suspicion. We believe this practice can balance the need for inspecting and investigating offences under Part 5 and the protection of privacy in domestic premises. This arrangement will alleviate Members' worries too. The granting of such power is proportionate and necessary. When drafting the enforcement guidelines, we will provide a clear definition of "reasonable suspicion". In fact, we have consulted the Department of Justice while drafting the amendments with a view to confirming our believes.

Finally, Mr SHIU Ka-fai has mentioned his concern about disputes between frontline officers and customers. After commencement of the law, a notice must be displayed at premises where liquor is sold, stating expressly that no liquor can be sold to minors, in hope of reminding both parties the statutory requirements. DH will also lay down guidelines for the trade and enhance publicity and education in this regard.

In the end, Members have paid much attention to public education and publicity, as well as urging DH to strengthen relevant efforts. I wish to tell that we are currently working on a range of education exercises concerning the effects

of alcohol consumption or young people. After the Bill comes into operation, we will further reinforce publicity. DH published the Action Plan to Reduce Alcohol-related Harm in Hong Kong in 2011, and the Bill in question is exactly one of the 17 actions proposed in the Action Plan. We have already started implementing most other actions, and some of them have already been accomplished, such as tasks targeting young people and those relating to health education. As for young people, I would like to point out again that DH just launched a health campaign called "Young and Alcohol Free" in 2016-2017 which aims to realize and fulfil the vision of a community where young people are alcohol free. The purpose is to improve public awareness and understanding of liquor consumption. Apart from focusing on young people, health education has also been carried out work to spread the message to parents, teachers and the general public so as to protect young people from alcohol. We wish to achieve a broader consensus on this subject.

At last, I hope Members can support both groups of our amendments. We will make efforts to deal with the issues of concern brought up by Members. It is truly undesirable if the amendments are not passed as this will have consequences for future law enforcement. That said, DH will concentrate its law enforcement on certain distribution points. We will also strengthen publicity and education in respect of the new regulations, as well as keeping an eye on and tackling the issues brought up by Members, such as regularly checking websites which sell alcoholic beverages. Letters and emails will be sent to sellers as a reminder of compliance.

Chairman, I so submit.

CHAIRMAN (in Cantonese): As the Secretary has requested separate voting on her two groups of amendments, her first group of amendments will now be put to vote first.

I now put the question to you and that is: That the first group of amendments moved by the Secretary for Food and Health be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

Mr Holden CHOW rose to claim a division.

CHAIRMAN (in Cantonese): Mr Holden CHOW has claimed a division. The division bell will ring for five minutes.

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

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

Mr James TO, Mr Abraham SHEK, Mr Tommy CHEUNG, Prof Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Alvin YEUNG, Mr Andrew WAN, Mr CHU Hoi-dick, Mr Jimmy NG, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Ms Tanya CHAN, Mr LUK Chung-hung, Mr Kenneth LAU, Dr CHENG Chung-tai and Mr Jeremy TAM voted for the amendments.

THE CHAIRMAN, Mr Andrew LEUNG, did not cast any vote.

THE CHAIRMAN announced that there were 44 Members present and 43 were in favour of the amendments. Since the question was agreed by a majority of the Members present, he therefore declared that the amendments were passed.

(Some Members talked in their seats)

CHAIRMAN (in Cantonese): Members please keep quiet.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That the second group of amendment moved by the Secretary for Food and Health be passed. Will those in favour please raise their hands?

(Members raised their hands)

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

(Members raised their hands)

Mr Holden CHOW rose to claim a division.

CHAIRMAN (in Cantonese): Mr Holden CHOW has claimed a division. The division bell will ring for five minutes.

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

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

Prof Joseph LEE, Mr CHAN Kin-por, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr Martin LIAO, Mr POON Siu-ping, Mr Alvin YEUNG, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Ms Tanya CHAN and Mr Jeremy TAM voted for the amendment.

Mr James TO, Mr Abraham SHEK, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Dr Priscilla LEUNG, Mr Steven HO, Mr Frankie YICK, Mr CHAN Chi-chuen, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Mr KWOK Wai-keung, Dr Fernando CHEUNG, Dr Helena WONG,

Mr IP Kin-yuen, Dr Elizabeth QUAT, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Andrew WAN, Mr CHU Hoi-dick, Mr Jimmy NG, Mr HO Kai-ming, Mr Holden CHOW, Mr SHIU Ka-fai, Mr Wilson OR, Mr LUK Chung-hung and Dr CHENG Chung-tai voted against the amendment.

THE CHAIRMAN, Mr Andrew LEUNG, did not cast any vote.

THE CHAIRMAN announced that there were 42 Members present, 12 were in favour of the amendment and 29 against it. Since the question was not agreed by a majority of the Members present, he therefore declared that the amendment was negatived.

CLERK (in Cantonese): Clause 7 as amended.

CHAIRMAN (in Cantonese): As the first group of amendments to clause 7 moved by the Secretary earlier on has been passed by committee of the whole Council, I now put the question to you and that is: That clause 7 as amended stands part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): All the proceedings on the Dutiable Commodities (Amendment) Bill 2017 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I now report to the Council: That the

Dutiable Commodities (Amendment) Bill 2017

has been passed by committee of the whole Council with amendments. I move the motion that "This Council adopts the report".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Food and Health be passed.

In accordance with Rule 59(2) of the Rules of Procedure, the motion shall be voted on forthwith without amendment or debate.

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

(Members raised their hands)

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

(No hands raised)

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

Third Reading of Government Bill

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

DUTIABLE COMMODITIES (AMENDMENT) BILL 2017

SECRETARY FOR FOOD AND HEALTH (in Cantonese): President, I move that the

Dutiable Commodities (Amendment) Bill 2017

be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Dutiable Commodities (Amendment) Bill 2017 be read the Third time and do pass.

Does any Member wish to speak? Mr Holden CHOW, please speak.

MR HOLDEN CHOW (in Cantonese): President, I wish to thank the Secretary for giving a very detailed reply. I listen to her reply very carefully. In response to certain aspirations raised by us earlier in this meeting, she made certain pledges, such as the manpower issue of law enforcement agents and the details of enforcement work and other issues raised by Mr CHAN Han-pan. She has responded to all of these issues concerning the inspection of on-street shops.

However, I wish to take this opportunity to speak on the second part of the Government's amendments, that is, the proposal concerning the power to enter and search domestic premises which is vetoed by the Legislative Council subsequently. I hope the Secretary understands the reason why we raise the question. It is because we consider the action is disproportionate to the crime, that is, the power should not be extended to entering and searching a domestic premises, because that is not a very serious crime.

Of course, we also welcome the fact that the Secretary will conduct regular review on the ordinance in future after its enactment. What I mean is that if the Government really fears that some people will use domestic premises to sell liquors illicitly to minors under the age of 18 years after the enactment of the Bill, or if the situation has deteriorated to a certain extent which warrants the need to review the arrangement, I certainly hope you will come back to the Legislative Council and discuss the issue with us. Nevertheless, I hope you understand that at the present stage, we have not seen the likelihood of people using domestic premises to sell ...

PRESIDENT (in Cantonese): Mr Holden CHOW, I have to remind you that as this is the Third Reading debate on the Bill, Members should only explain if they support the Third Reading of the Bill. Members should not repeat the arguments which have been raised during the Second Reading debate or in the committee of the whole Council.

MR HOLDEN CHOW (in Cantonese): President, I understand that, I am going to speak on the subject. President, I hope the Administration will understand this. I am not going to repeat it.

We support the Bill. We have to reiterate that the objective of the principal legislation is to further protect minors under the age of 18 years and prevent the development of an addictive drinking habit among young people. We hope to prohibit the sale of liquors to minors under the age of 18 years by means of the enactment of the Bill. Nevertheless, as I have said during the Second Reading or the stage earlier than that, the major targets of us are on-street shops.

With regards to on-street shops, I wish to raise a question. That is, besides the deployment of manpower and the arrangement of the duty periods of law enforcement agents, will the Government be able to deal with such problems rapidly upon receiving the complaints? This is a problem we have been pointing out since the discussion of the Bills Committee. For that reason, we really hope that you have taken note of our views. We also hope that after the enactment of the Bill, we can really prevent minors under the age of 18 years from developing an addictive drinking habit. In particular, we should protect them and prevent them from the damage of alcohol to their physical well-beings.

With these remarks, President, I speak in support of the principal legislation.

MR SHIU KA-FAI (in Cantonese): President, we support the principle of this Bill, that is, not to sell liquors to minors under the age of 18 years. However, I wish to add one thing, that is, I have mentioned earlier that the Government should remind those frontline sales staff, such as an old shopkeeper who sells rice wines in wet markets, deliveryman, and so on.

Moreover, I forget to mention one thing previously, that is, in Hong Kong, a lot of people love to collect red wines, and they will trade these red wines to their friends. Let me cite an example, if the 16 or 17 years old son of a friend of Mr Henry TANG asks him: "Uncle, I want to give a bottle of wine as a gift to my daddy, can you sell me one?". If Mr Henry TANG is unaware of the ordinance, he will be arrested as he has broken the law.

Therefore, the Government should let these people know if they are going to transfer the ownership of their wine collections to some young people, they have to check if the young buyers have reached the legal age. That is all I wish to say.

Thank you, President.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Dutiable Commodities (Amendment) Bill 2017 be read the Third time and do pass. Will those in favour please raise their hands?.

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Dutiable Commodities (Amendment) Bill 2017.

Resumption of Second Reading Debate on Government Bill

PRESIDENT (in Cantonese): This Council resumes the Second Reading debate on the Waterworks (Amendment) Bill 2017.

WATERWORKS (AMENDMENT) BILL 2017**Resumption of debate on Second Reading which was moved on 26 April 2017**

PRESIDENT (in Cantonese): Ir Dr LO Wai-kwok, Chairman of the Bills Committee on the Bill, will address the Council on the Committee's Report.

IR DR LO WAI-KWOK (in Cantonese): President, in my capacity as Chairman of the Bills Committee on Waterworks (Amendment) Bill 2017 ("the Bills Committee"), I submit to this Council the report of the Bills Committee and report on the key items of its work.

The Waterworks (Amendment) Bill 2017 (the "Bill") seeks to amend the Waterworks Ordinance ("WWO") and the Waterworks Regulations ("WWR") to the effect that specified plumbing works may also be carried out by a worker registered under the Construction Workers Registration Ordinance ("CWRO") for the relevant specified trade division and a person under the instruction and supervision of a specified plumbing worker. The Bill also stipulates the responsibility of licensed plumbers and supervisors for the specified plumbing works.

The Bills Committee supports the Bill, through which the roles, involvements and responsibilities of the persons responsible for carrying out the specified plumbing works, including licensed plumbers and plumbing workers, are delineated clearly.

Among members' key concerns regarding the proposals set out in the Bill are the liabilities of plumbing workers and the provision on statutory defence.

It is an offence under the existing section 14(4) of WWO for any person who contravenes section 14(3) of WWO in respect of the construction or installation of water supply system for fire service or inside service. The Bill

proposes adding the proposed new section 14(5) of WWO as a provision for statutory defence, which provides that it is a defence for a person who is charged with an offence under the proposed section 14(4)(b) to establish that he believed that carrying out the plumbing works would not contravene section 14(3) and it was reasonable for him to so believe.

Some members are of the view that the proposed new provision for statutory defence as it is drafted cannot alleviate plumbing workers' worries effectively, because a plumbing worker carrying out the plumbing works which contravene section 14(3) of WWO cannot easily prove that it was reasonable for him to believe that carrying out the plumbing works would not contravene section 14(3) of WWO. These members have suggested that the Administration should amend the Bill to specify that if a non-compliance is found in a plumbing project, workers will not be prosecuted for an offence unless they have deliberately not followed the instruction of their instructing supervisors when carrying out the works concerned.

(THE PRESIDENT'S DEPUTY MS STARRY LEE took the Chair)

Having regards for members' views, the Administration will propose a Committee stage amendment ("CSA") to the proposed section 14(4) of WWO to the effect that skilled plumbing workers and other workers are liable only if they knowingly contravene section 14(3).

Another key concern of Members is the time limit for instituting prosecutions against violation of relevant requirements. The Bill proposes that any prosecution under WWO may be brought within a period of six months from the date on which the offence is discovered by, or comes to the notice of, the Water Authority. Yet, the time limit for instituting prosecutions since the date of violation of requirement is not specified. In effect, such a provision means that a licensed plumber is still liable for a non-compliance of a plumbing system that is discovered a long time after the installation of the plumbing system concerned. Both the members and the trade consider it unfair to plumbing practitioners as violations of the relevant requirements may be committed by some other people who have made modifications to the plumbing system after it has been installed.

Having accepted the views of members and the trade, the Administration has proposed a CSA stipulating that no prosecution may be brought after six years from the date on which the violation of the requirements under section 14(3) of WWO is committed.

The Bill stipulates that alterations or repairs to a fire service or inside service which are, in the opinion of the Water Authority, of a minor nature may be carried out by persons other than designated persons. Concern was raised about how the Administration would make known to the trade and the general public the definition of "works of a minor nature" given by the authorities. The Administration advised that the Water Supplies Department ("WSD") had been promulgating the general principles and examples for "works of a minor nature" via circular letters for licensed plumbers and publications on its official website. The Administration considers that such current practices can help maintain flexibility and has all along been effective.

Members were of the view that the definition of "works of a minor nature" should be clearly set out in the legal provisions. In this regard, the Administration has taken on board members' suggestion and will propose a CSA to define such works and provide that any works that will adversely affect the efficiency of the water supply system and the quality of the water must not be considered as "works of a minor nature".

As regards the implementation of the Ordinance, the Bills Committee studied the draft guidelines to be published by the Government for the reference of the public and the trade with a view to helping plumbing practitioners understand their roles and responsibilities under WWO as amended by the Bill so that they would not inadvertently contravene the law. The Administration advised that it would collaborate with relevant workers' unions to launch educational and promotional activities related to the relevant law, such as briefings and publication of leaflets.

In the course of deliberations, members examined the continuing professional development programmes/courses available for plumbing practitioners that would facilitate their long-term career development. The Administration advised that the Development Bureau had all along been working in collaboration with the Construction Industry Council and Vocational Training Council in organizing continuing professional development programmes/courses for plumbing practitioners, and the Administration would continue its efforts in enhancing their relevant skills and knowledge.

Deputy President, the following is my personal view on the Bill. The existing water regulatory and monitoring regime in Hong Kong, as well as the powers and responsibilities of the Water Authority and WSD, are governed under WWO (Cap. 102) and WWR (Cap. 102A). Under the existing section 15(1) of WWO, except for minor alterations or repairs or the rewashing of a tap, fire service or inside service may only be constructed, installed, maintained, altered, repaired or removed by a licensed plumber or a public officer authorized by the Water Authority. In practice, however, workers have been assisting licensed plumbers in works such as the construction of water supply systems. This mode of operation has remained in practice over the past few decades.

As the lead content in drinking water samples taken from public rental housing ("PRH") estates and even private buildings were found to have exceeded the benchmark set by the World Health Organization ("WHO") before and after the summer vacation in 2015, the Chief Executive in Council decided to set up the Commission of Inquiry into Excess Lead Found in Drinking Water ("COI") at that time to carry out investigations at various levels so as to ascertain the causes of excess lead found in drinking water in PRH estates. It was also tasked to review and evaluate the adequacy of the present regulatory and monitoring system in respect of drinking water in Hong Kong and find out whether it was appropriate while making recommendations with regard to the safety of drinking water in Hong Kong.

The Bill, on the one hand, gives priority to some of the recommendations made by CoI to improve the parts of the existing WWO that are obviously obsolete and out of tune with the time to the effect that, for example, plumbing workers registered under CWRO for the specified trade division and also the general workers working under whose instruction and supervision are allowed to perform plumbing installations legally. On the other hand, the duties of licensed plumbers are also clarified so that licensed plumbers, skilled plumbing workers, general workers and members of the public are able to get a clear understanding of the duties of the aforesaid stakeholders. Besides, with the amendment in the time limit for instituting prosecutions, the Water Authority is able to further enhance the quality assurance of water supply systems by effectively taking enforcement actions.

The Bills Committee has held six meetings in total to meet with the Administration and received views from some deputations. In response to the enquiries in relation to various clauses and suggestions made by members and the

Legal Adviser to the Bills Committee, the Administration will propose certain CSAs. The Bills Committee raises no objection to the CSAs proposed by the Government and neither will it propose any CSA to the Bill. This shows that all quarters of society have generally reached a basic consensus on the issues concerned.

Deputy President, originally the Administration proposed in clause 1 of the Bill that the new ordinance should come into operation on a day to be appointed by the Secretary for Development by notice published in the Gazette if the Bill was passed. However, according to the CSAs to be moved by the Administration, upon passage of the Bill by the Legislative Council, the new law will come into operation on the day on which it is published on the Gazette. Since the Bill mainly reflects the existing situation regarding the operation of the trade, it should come into operation as soon as practicable in order to bring improvements to the non-compliances of plumbing workers under WWO. Hence, I opine that the arrangement made for the new law to come into operation on the day it is gazetted is appropriate. That said, the Administration should ensure that clear guidelines are issued prior to the effective date of the new ordinance so that relevant parties will understand the requirements of the Bill and take corresponding actions to facilitate the arrangements.

Deputy President, as recommended by CoI, the Water Authority and WSD should define, preferably by way of legislation, the roles, involvements and responsibilities of other parties such as developers, contractors and authorized persons who are in practice involved in the design and construction of inside service but are currently not prescribed with any duties under existing laws. Members noted that the amendments to WWO and WWR as moved by the Administration would be prioritized and carried out in phases in future after consultation with all stakeholders.

Deputy President, I had pointed out at a Bills Committee meeting that it would be impractical if the Administration made it a prerequisite for workers seeking renewal of their registrations that they should have attended relevant continuing professional development programmes/courses. In the long run, however, the Administration should continue its efforts in enhancing the skills and knowledge of plumbing practitioners. Actually, I have offered my advice to the Government on various occasions: Given the strong call from the society that the regulation on waterworks and safety of drinking water be stepped up, the Government should put in more resources to enhance training for waterworks

professionals at all levels while establishing a comprehensive ladder for continuing education so as to nurture more professionals for the engineering sector and technical talent for relevant types of technical posts.

In all fairness, relevant government Policy Bureaux and departments have been taking forward follow-up actions and implementing various improvement measures after the incident of excess lead found in drinking water in 2015. The Action Plan for Enhancing Drinking Water Safety in Hong Kong was launched last September to further safeguard drinking water quality in Hong Kong through a multi-pronged approach, including the review on the regulatory system for the safety of drinking water in Hong Kong. The Bill, as an important part of the Government's efforts in this regard, really deserves our support.

Every livelihood issue is a big deal, and the safety of drinking water and health are among people's fundamental needs in daily living. Therefore, in making recommendations in respect of Chief Executive Mrs Carrie LAM's Policy Address for 2017-2018, I have highlighted that the authorities should identify the origin and causes of the "excess-lead-in-water" incident so that right remedial steps can be taken to rectify the problem by perfecting the existing legislation and various complementary mechanisms to step up tests and regulation on the quality and safety of water supply. Besides, it should allocate additional resources to enhance training for waterworks professionals at all levels and help promote the accreditation of professional waterworks engineers in the trade so as to ensure that the quality of drinking water in Hong Kong meets relevant standards. That will be conducive to enhancing public confidence in the safety of drinking water. In light of the above considerations, I urge Members to support the passage of the Bill.

Deputy President, I so submit.

DR HELENA WONG (in Cantonese): Deputy President, the lead-in-water storm occurred two and a half years ago when excess lead contents were found in drinking water of more than 29 000 households in 11 public rental housing ("PRH") estates. The storm sweeps away Hong Kong people's confidence in the quality and safety of our drinking water. As an aftermath of the storm, we need to rebuild our regulatory regime to ensure the safety of water from source to tap in order to supply Hong Kong people with reliable non-toxic drinking water.

Earlier on, the Legislative Council has passed the Waterworks (Amendment) Regulation 2017, a subsidiary legislation to update the standards for all plumbing materials and components to be used in works on fire services or inside services, so as to reduce the possibility of polluting the water supply due to the outdated standards or the sub-standard plumbing materials and components.

Today, we have to pass the Waterworks (Amendment) Bill 2017 ("the Bill") to plug the loopholes arising from the deviations of the actual industry practice from the existing legal requirement. Under the existing section 15(1) of the Waterworks Ordinance (Cap. 102) ("the Ordinance"), except for minor alterations or repairs or the rewashing of a tap, fire service or inside service may only be constructed, installed, maintained, altered, repaired or removed by a licensed plumber or a public officer authorized by the Water Authority (i.e. the Director of Water Supplies). While the language of the legislation has restricted the eligibility of workers to carry out the works, it has been the industry practice for the past several decades to also have workers other than licensed plumbers engaged in such works. The fact is Hong Kong does not have an adequate supply of licensed plumbers to cater to the large amount of water works, making it impossible for the trade to comply with the requirement. It will be an offence for workers to engage in plumbing works if we do not introduce legislative amendments to remove this restriction. Hence, the Democratic Party supports the expeditious passage of the Bill.

It has been the industry practice that not only licenced plumbers but also plumbing workers will carry out the relevant works. Thus, I think the Government must introduce amendments to cater to this practice. The debate topic today is the Waterworks (Amendment) Bill 2017. As the Deputy Chairman of the relevant Bills Committee, I have discussed with the Government throughout the scrutiny. We seek to amend the Ordinance so that the construction, installation, maintenance, alteration, repair or removal of a fire service or inside service ("specified plumbing works"), except for minor alterations or repairs, may be carried out not only by an licensed plumber or a public officer authorized by the Water Authority, but also by the following prescribed persons: a registered plumbing worker, a registered plumbing worker (provisional) or a person who carries out specified plumbing works under the instruction and supervision of an licensed plumber or registered plumbing worker. In other words, the legislative amendments seek to introduce provisions to explicitly legalize the current system. I think Members as well as the public will understand why we need to do so.

Apart from specifying persons who can carry out the water works, another major issue under the Bill is the legal responsibilities of the relevant persons. Should they be subject to any criminal liability? We have sufficiently discussed in the Bills Committee how we should deal with the criminal liabilities of licensed plumbers and plumbing workers. The Bills Committee has also conducted a public hearing to listen to the views of deputations and the concerns raised by the plumbing trade. We know that the Government has finally taken on board some good advice and introduce a defence provision to the Bill. I think this is a sensible move in the right direction. The main purpose of the Bill is to ensure the safety of drinking water, rather than seeking to prosecute or impose penalty on workers for their behaviours. I think it is acceptable to introduce this defence provision to reasonably deal with the criminal liabilities of workers.

The Democratic Party is particularly concerned about the provision of adequate training to workers to equip them with sufficient knowledge, so that they can carry out the plumbing works lawfully without contravening any ordinance. Without such training, they can simply say something like "ignorance means not guilty", rendering the Ordinance useless. In the Bills Committee, we have stressed time and again the need for the Government to provide adequate training to plumbing workers. I think plumbing workers, particularly licensed plumbers, should also be aware of the need for self-improvement and should sign up for continuing professional development courses in order to keep abreast of the knowledge of the drinking water safety including the latest legal requirements. The knowledge enhancement is helpful for effectively carrying out the plumbing works and the proper and lawful performance of their relevant duties, thus ensuring the drinking water safety and safeguarding public health.

Indeed, the authorities launched a continuing professional development scheme for licensed plumbers in around October of 2016. According to the Water Supplies Department ("WSD"), licensed plumbers responded positively to the scheme and did not resist joining it. However, it was only a voluntary scheme. I have repeatedly told officials of WSD and the Development Bureau that it is acceptable for the continuing professional development scheme to be operated on a voluntary basis initially, but it should be replaced with a mandatory one as soon as practicable. The Democratic Party calls on the Government to discuss with the Advisory Board on Licensing of Plumbers to facilitate the formulation of a mechanism in the trade, making it mandatory for licensed

plumbers and plumbing workers to attend continuing professional development programmes in their licence renewal. Whether they are licensed plumbers or the various types of prescribed plumbing workers I have mentioned, it is essential to provide them with relevant training to improve their knowledge and technique. It will be unfair to the public as well as to plumbing workers themselves if the workers breach the law in the course of the works due to the lack of knowledge. Hence, I hope that the Government can provide more support to the trade in this respect.

In the past, we used to put emphasis only on the technical operation, and we might not know whether the practice in the trade would affect the safety of drinking water. It is therefore necessary for us to upgrade ourselves to have a better grasp of the latest knowledge and techniques. The lead-in-water incident involves the presence of lead in soldering materials, and is a result of the poor gate-keeping work. Apart from the use of soldering materials, I have found recently that workers will also apply the rosin paste before the welding works. Rosin paste is a kind of flux or a flux agent to bond copper pipes with their components. I discover that the trade actually does not know or workers are wrongly taught on the proper usage of the rosin flux.

Hence, we should keep abreast of the latest knowledge and techniques. According to our observation, the biggest problem in the use of rosin flux is that workers simply do not read the instruction manual before they use it. The manual warns against the excessive use of rosin flux on copper pipes, but most practitioners in the trade do not know about the prohibition. Being ignorant about the proper usage of the flux, some workers use their fingers, instead of brushes, to rub it into the pipes. Despite the fact that the manual clearly prohibits the use of acidic flux and recommend external instead of internal flux coating, most trade practitioners are unaware of these instructions. The excessive use of flux inside and outside of the pipes will thus produce many copper oxides.

I think licensed plumbers actually do not have access to the relevant knowledge. WSD is not aware of the improper flux use while the Development Bureau simply does not know what is happening. I am able to discover the use of rosin flux in pipes, study the contexts of the flux instruction manual, and observe the use of flux in the trade only after I pursue complaint cases from residents who say there are many blue and green particles in the strainers after turning on the tap. Hence, the provision of professional development

programmes for plumbing workers are essential. However, it will be extremely undesirable if we allow the programmes to be introduced on a voluntary basis and workers are free to join the courses or not. If the enrolment has nothing to do with the licence renewal, we may not be able to ensure the safety of drinking water no matter how perfect the relevant legislation is. Out of ignorance, workers may carry out sub-standard water works in consistence with the instruction manuals and paying no attention to the guidelines published by WRAS (the Water Regulations Advisory Scheme). The Government, though it has kept a close eye on the lead contents in solder after the lead-in-water incident, was actually not aware of the use of flux in the past. The use of rosin flux also poses a problem. That is why I have kept urging the Government to hire an expert in the safety of water quality in order to assist the Government in monitoring the safety of drinking water. If we want to continue to have safe drinking water, we have to make the taking of training courses by plumbers mandatory.

We should provide workers with sufficient protection so that they will not commit any offence without their knowledge and thus have to defend themselves before the court. Even though it is a reasonable defence that they commit such crimes unintentionally without their knowledge and they may be able to walk free. Yet, for the sake of protecting the workers and ensuring the safety of drinking water, I think the taking of professional development programmes has to be made mandatory.

During the deliberation of the Bill, I have repeatedly questioned the rationale for only dealing with the criminal liabilities of licensed plumbers and the prescribed plumbing workers. In most cases, these prescribed persons are only executors of the plumbing works in the entire workflow. This is particularly so in the construction and design of water works for some large-scale buildings. Such water works are neither designed nor operated by licensed plumbers or plumbers. It is the building services engineer and some other professionals rather than plumbers who are responsible for the water works. In other words, licensed plumbers and plumbing workers are not the responsible persons for the works. For the sake of ensuring drinking water safety, we should not just subject plumbing workers and licensed plumbers to regulation. Instead, we should also look into the liabilities of other stakeholders of water works, including developers, principal contractors, contractors of plumbing works, suppliers of plumbing materials, such professionals as architects and building services engineers, as well as other authorized persons.

Instead of dealing with these professionals, the Bill only targets workers. I think this is utterly unfair to workers and other frontline operators. We have argued about this for quite a long time in the Bills Committee. The Government has said it would deal with the criminal liabilities of workers and licensed plumbers as a first step. In the next step, it would introduce legislative amendments in respect of the criminal liabilities of other engineering and professional persons and conduct relevant consultation. I see officials at this side nod. Indeed, they have promised me to expeditiously handle the part on the liabilities of other professionals after finishing the work of this Bill.

Actually, the lead-in-water problem involves not only plumbing workers but also relevant professionals. We cannot solve the problem if we only regulate the workers but not the relevant professionals. It is exactly the professionals who wrongly teach plumbing workers how to use rosin flux. Will they be held criminally liable for this? It will be absolutely unfair to workers if they alone are subject to criminal liabilities. Since the Government has already undertaken to take forward the relevant work, I hope this can be commenced as soon as possible. I support the relevant legislative amendments.

MR POON SIU-PING (in Cantonese): Deputy President, I speak in support of the Waterworks (Amendment) Bill 2017 ("the Bill"). The Bill seeks to follow up the recommendations of the Commission of Inquiry into Excess Lead Found in Drinking Water to update the technical requirements and plumbing material standards. It is believed that the introduction of the new standards can effectively enhance the water quality at consumer taps.

To ensure the effective monitoring of the construction, installation, maintenance, and repair of the plumbing system, we inevitably have to deal with the liabilities of plumbers, workers, and other frontline staff. Despite the Government's assurance that the Bill does not seek to impose any additional liability on workers in respect of the water works, the restrictions imposed on the workers in sections 14 and 15 are likely to make them fall foul of the law inadvertently. I am glad that the Government has heeded the concerns of the Bills Committee and readily proposed amendments to the Bill to explicitly provide for a defence to better protect the workers.

I hope that the Government would submit a report to the Legislative Council after the amended legislation has been in force for some time to update us of the implementation of the relevant provisions. We are particular keen to

know if any workers have breached the law inadvertently in the course of their work and thus have to bear the criminal liabilities. Besides, the Water Supplies Department also has to review its guidelines and step up its publicity efforts to remind plumbing practitioners of their possible liabilities under the amended Waterworks Ordinance.

Deputy President, enhanced training is indispensable if we wish to raise the standards of the construction, installation, and maintenance of the local waterworks facilities. Under the existing licensing rules, a plumber's licence is valid for one year, but the plumber will have as long as five years' grace during which the licence will not be revoked and the plumber will not be disqualified. While the licence renewal is not directly related to the Bill, the Government will still need to consider how it can provide incentives to encourage plumbers to enhance their skills so as to ensure the safe and reliable plumbing system. In addition to the monitoring work, the Government still has a lot to do to promote training and technical upgrades in the trade.

Deputy President, I so submit.

MR LAU KWOK-FAN (in Cantonese): Deputy President, I rise to speak in support of the Government's amendments to the Waterworks (Amendment) Bill 2017 ("the Bill"). The recent lead-in-water incident in public housing estates has aroused grave concern about the safety of drinking water among various social sectors. So, we highly welcome the Government's timely amendments to the Waterworks Ordinance after the incident. This has given us an opportunity to achieve the objective of ensuring the safety of drinking water through monitoring those who participate in and supervise plumbing works.

According to the Government's latest amendment proposals, apart from existing licensed plumbers and public officers authorized by the Water Authority, skilled workers or semi-skilled workers may likewise be designated as persons who can undertake plumbing works, and other persons will also be allowed to carry out plumbing works under the instruction and supervision of licensed plumbers, skilled workers or semi-skilled workers. To my understanding, the process of forging a consensus this time around was not without difficulties. In the process, various stakeholders met with us and reflected their views. Besides, the Legislative Council also held public hearings. I believe the Government has fully communicated with various sectors in the process.

I particularly remember that when the Government put forth the relevant amendments at the very beginning, many plumbers' organizations expressed grave concern because other general workers might not have received any professional training and assessment, in contrast to skilled workers or non-skilled workers. Therefore, they might use harmful materials or a wrong approach in the works process, thus jeopardizing the safety of water users. After Members and the relevant organizations raised their queries, the Government offered a detailed explanation, pointing out that generally, ordinary workers would only be engaged in menial or repetitive tasks and allowed to undertake works according to the manner or approach specified by their supervisors within the scope of professional instructions and decisions.

Therefore, under the new amendments, licensed plumbers, skilled workers or semi-skilled workers who have professional experience and knowledge will be responsible for handling and making decisions on the steps which may lead to the lead-in-water incident, including the selection of plumbing materials and the soldering method, so as to prevent ordinary workers from jeopardizing the safety of drinking water due to inadequate experience.

Besides, the Government has likewise pointed out that assigning skilled workers and semi-skilled workers as supervisors may help them acquire more working experience and in turn enhance their skills and facilitate their future promotion. It has also said that allowing qualified persons to conduct works with the assistance of persons without any specific qualifications is an operational mode which has existed in the plumbing industry over the past few decades and has basically been adopted by the industry all along, only that there has not been any express stipulation previously. It has asserted that it now seeks to regularize this practice by introducing regulation and restrictions. Therefore, they are able to forge a consensus with the industry in the end. As the Government's explanation has basically dispelled the concern of people and the industry, and the new amendments can also provide a clearer definition of persons participating in plumbing works, we are willing to support the Government's amendments.

Certainly, if the authorities want to truly eradicate the lead-in-water incident, it is obviously insufficient if they only begin with those who conduct the relevant works. I believe the Government is likewise well aware of this. Therefore, the Government has not regarded this amendment exercise as the only follow-up on the lead-in-water incident. As far as my understanding goes, the

Government has set up a commission, and it has conducted a number of tasks and taken various steps. Certainly, since the commission was set up not long ago and has just begun to conduct a review, I think we should wait to see if it can achieve any effects.

Let me return to the Bill. The safety of plumbing materials is undoubtedly very important. The reason is that the use of harmful materials is hazardous to people's health. We are delighted to see that the Government has introduced amendments to the Legislative Council concerning the latest technologies and standards for plumbing materials and components used in fire service and inside service systems. And the relevant amendments have already been discussed by the relevant committee. I hope that we can expeditiously complete our scrutiny as the next step and proceed with the task of ensuring the safety of drinking water under a multi-pronged approach.

It so happened that the Director of Water Supplies also attended a District Council meeting this morning, and he discussed a great deal of work in his detailed speech of over one hour. I believe the existing government departments responsible for water supply services should be able to devote joint efforts to the safety of drinking water through mutual coordination instead of following their own policies as in the past and seek to bring this task to satisfactory completion. I think this is very important.

Here, I hope that the Government can expeditiously complete the discussion on the relevant amendments and forbid the use of substandard plumbing materials as early as possible while considering the enactment of legislation to regulate suppliers of plumbing materials and penalize those suppliers who provide unlawful plumbing materials, so as to better ensure the safety of drinking water for the people. I hope the Government can pay heed to this part of my speech. Their direction is actually correct.

But I also have to add one point briefly. As the issue today concerns the Development Bureau, I wish to elaborate a bit more on it. After an incident occurs in the works process or in a construction site, the Government will very often issue many new guidelines to tackle that problem. This time around, the Government has also issued a new guideline on the safety of drinking water. But I hope that the Government can think clearly about which segments of the whole system warrant more steps or fewer steps.

I often give the Secretary one example, the example that the Government will very often issue a new guideline after an incident has happened. If further problems arise after the issuing of the new guideline, the Government will issue another new guideline. What will be the result? It is just like the situation where the Government requires workers to wear a safety helmet in construction sites to prevent accidents. After a problem occurs, the Government may order that workers must wear an additional safety helmet. Will the wearing of an additional safety helmet guarantee better safety? If accidents occur one after another, and a worker is required to wear an additional safety helmet afterwards, he may end up being required to wear five safety helmets. I have been told by some works project personnel that supervisory officers even outnumber ordinary workers in construction sites. What will happen if a worker wears too many safety helmets? Even if there is no accident, he may sustain neck injuries as he wears too many safety helmets.

This can be found in not only the construction industry but also the ordinances relating to water supply services. At present, while supervisory officers have been deployed to construction sites in total compliance with statutory requirements, such supervisory officers in construction sites may merely conduct very brief on-site inspection and then sign their names as confirmation. That way, previous problems may reoccur. But now, the liabilities of signees or supervisory officers have become clearer. This may be helpful in some ways.

In my view, the most important thing is that the authorities should review afresh the whole system and the whole matter, so as to determine the segments in need of greater efforts and those which may lead to the shirking of responsibilities among departments or their failure to coordinate with one another due to overlapping portfolios. I hope that after the amendments to the Bill have taken effect, the Government can examine whether their implementation is as satisfactory as it has imagined. We think that this is a good direction. But will any problems arise in the future? For instance, how much time will be spent by the persons concerned on on-site instruction and supervision? We honestly need to give careful consideration. I believe after a series of incidents, the Secretary will attach greater importance to the safety of drinking water.

With these remarks, Deputy President, I support the Government's amendments to the Bill.

DR PRISCILLA LEUNG (in Cantonese): Deputy President, I speak in support of the Waterworks (Amendment) Bill 2017 ("the Bill"). The Bill originates from the outbreak of the incident of excess lead found in drinking water ("the incident") during the summer holiday in 2015. The incident has fermented and led to great controversies and some relatively extreme cases, in which some government officials were forced to consume water containing lead when they were visiting districts. Things have got out of control and spread from public rental housing ("PRH") estates to private residential buildings, where all residents were plunged into panic.

After the unveiling of the incident, as members of various District Councils, it was of course our responsibility to follow up the incident together. The first PRH estate in which excess lead was detected in drinking water is Kai Ching Estate, an estate in which I have served many years and am very familiar with. Subsequently, Kowloon West became one of the most-affected areas, with the problem spreading to Hung Hom Estate, Fu Cheong Estate, Wing Cheong Estate and Shek Kip Mei Estate. As District Council members serving such places are all my friends, I know the relevant situation in these areas quite well, and understand that the incident had not triggered much panic among residents in the districts at the beginning, but they were increasingly gripped by fear later. Particularly, when paediatricians cautioned that consumption of water containing lead could have adverse health effects on pregnant women and children, we all felt that we must face up to the problem squarely.

I think the amendments proposed to the Waterworks Ordinance in the current exercise have obviously come too late, but this is always how the Hong Kong Government handles things. We also understand that there is a need for the Government to grope its way across the river, and a review of the system would only be conducted when something has actually happened. After the incident, a commission of inquiry was appointed by the Government to look into the matter, and as clearly revealed in the report of the commission of inquiry, the Waterworks Ordinance has never been amended since its commencement 41 years ago in 1975. Hence, no revision has ever been made to the provisions in the Ordinance on the materials required, the standard of lead contents or many other specifications. In this connection, some fellow colleagues are still actively following up the problems involved, and I consider it worth encouraging, since this is after all an issue of public interest.

Our society has become increasingly demanding, but out of unknown reason, the Government has set a very high standard for lead contents in drinking water of Hong Kong back in those years, perhaps when it did not fully understand its own performance in water quality control. However, the people were thrown into panic when the Government failed to achieve the high standard specified. I think we can indeed use the term "panic" to describe what happened then, and I have even reminded the Government in the Legislative Council that care should be taken to prevent the incident from developing into "the lead water version of the Lehman incident".

The introduction of the Bill is actually a follow-up measure, and as I pointed out back then, the Government should adopt measures in the short, medium and long term when following up the incident. As far as short-term measures are concerned, a number of developers and the Government were pressed by members of the public and Legislative Council Members to take actions, and have immediately installed special water filters for households in the PRH estates affected by the incident, so as to address their most immediate concerns. In this connection, I have to remind the Government that after the installation of water filters, arrangements have to be made to replace the filter cores on an ongoing basis. I have approached residents of Kai Ching Estate to enquire about the progress of the installation of water filters, and as reflected by these residents, the Government has taken actions to follow up the case, and has replaced many water pipes in the Estate. Hence, the Government has basically endeavoured to implement various short-term initiatives, such as the replacement of water pipes and filter cores, and has all along monitored and followed up the situation in certain PRH estates.

As for measures in the medium term, the introduction of the Bill should be a medium-term measure to follow up the incident, and the amendments proposed can actually tackle the problems faced by plumbers working in the front line. When the incident first happened, the Government has tried to put the blame on plumbers working in the front line, and some plumbers have thus vented their grievances in a high profile manner, saying that they have nothing to do with the incident. This has made it necessary for us to examine how the relevant requirements can be fair to all stakeholders when scrutinizing the Bill.

I remember I have pointed out back then that as stated by some government officials, they were just following the procedures, and if anything went wrong, individual officials and the civil servants involved would be able to get away very

easily. Moreover, the Government has often put the blame on plumbers and contractors. In my opinion, contractors should of course take on a greater responsibility when compared with plumbers working in the front line, but as the relevant procedures, system and even legislation have never been revised in the past 41 years, how can the Government affix the responsibility?

In fact, we understand that plumbers are living from hand to mouth, and as many elder members of my family are engaging in plumbing works, I also understand that if plumbers are expected to meet the requirements under the existing legislation and receive training at the same time, they will have difficulties in handling both tasks concurrently, especially for plumbers who have a number of hired workers to help them provide outsourced services. Nevertheless, with the advancement of society, the construction industry is also demanding for better pay and benefits and a better system, so that workers will not be regarded as absent from work and thus earn no pay at all when they are required to receive occupational training. Besides, the number of training days provided for workers employed by public works contractors could be deemed as an additional bonus, thereby encouraging such contractors to provide basic training for workers they employ. I think these should be the most basic and important costs, because only by enhancing workers' quality can they be made to realize that such kinds of incidents will do great harm to the public, and that they should not focus only on the need to follow the procedures and count on luck. The most important and fundamental issue is to enhance the quality of and the training for workers.

I agree very much with the views expressed by Ir Dr LO Wai-kwok, who is the Chairman of the Bills Committee formed to study the Bill and the representative of the Business and Professionals Alliance for Hong Kong in the Bills Committee. He has specifically mentioned that apart from plumbers working in the front line, we should also ensure that the protection from liability will be available to other relevant stakeholders under the Bill, so that they can set their mind at rest when they work. As these workers are living from hand to mouth, it will really be impossible for them to cope with the task if they are required to assume liability in this respect at the same time. No one will then be willing to join the sector, and this is also the problem faced by the construction industry at present. Hence, we must do something in our system to make them feel comfortable and at ease, and give them encouragement too.

However, as for contractors, I consider it necessary to raise the standard required of them. As I mentioned just now, apart from using the "carrot", we should also introduce the "stick", and what penalty should be considered a genuine punishment? Will a demerit points system be introduced? How many violations have to be recorded before a contractor is banned from undertaking public works projects? A licensing system should of course be the most standard way of addressing the problem, and I also agree with this proposal put forward by the Government. We also support the proposed six-month prosecution period, because this has definitely taken account of the problems faced by plumbers working in the front line.

Yet, despite this, I think developers, the main contractors and the Government cannot pretend as if nothing has ever happened. If you say that this is a procedural issue and for which no one should be held responsible, I would then like to ask: Who was responsible for formulating such procedures at the outset? Who and which government department has failed to review and accordingly amend the relevant legislation in these 41 years, and has indulged in empty talks about the need to comply with the international standard on lead contents in drinking water? Who has laid down such requirements? They should all be held responsible.

Basically, the Bill has not addressed this point squarely. All systems have to be updated, and along with social progress, the people will become more and more demanding, thus rendering it necessary to update our systems with a view to protecting the general public. It is definitely the responsibility of the Water Supplies Department ("WSD"), but apart from WSD, it is possible that a number of government departments should also be held responsible, because there must be someone to supervise the work of WSD within the Government. For a piece of important legislation like this, how come no amendment has ever been introduced in the past few decades? Should the Housing Department be held responsible? We cannot put the blame on frontline personnel whenever there are serious incidents in the front line, and even in the Lehman incident back then, the final responsibility was rested with Joseph YAM. I do not quite agree to this approach, because senior officers cannot shift their responsibility by arguing that the relevant judgment was made by frontline personnel. This is applicable to all matters in all areas, otherwise what is the meaning of an accountability system?

Therefore, I think the medium-term measure adopted this time to amend the relevant legislation can only address the concerns of plumbers and enhance the mechanism concerned, but there are still a lot of problems that it has not dealt

with. I have visited some PRH estates which I am familiar with as I mentioned just now, and after the replacement of water pipes, households in some of these estates can now stop relying on their water filters, but how about those estates where no replacement of water pipes has been made? The Government should check the water filters installed once every six months, lest a serious bacteria breeding problem will occur.

Nevertheless, what about those families, children and pregnant women affected by the incident? During the process, some parents have to quit their job in order to take care of their children, who are suspected of suffering from developmental retardation after consumption of water containing lead. Has the Government taken good care of such families? If we do not utter anything, the Government will assume that everything goes on as usual and nothing has ever happened, including the issues concerning special education and health check-up, which it has actually undertaken to examine. The situation has slightly improved only after we voiced our discontent subsequently at a meeting of the relevant District Council, but more importantly, how come the Government has all along done nothing to compensate for the losses suffered by those affected?

A total of 11 estates are involved in the incident, and both adults and children have consumed water containing lead, but adults did not feel unwell afterwards, while children were found to have some irregularities. Under such circumstances, should a mechanism be put in place to provide the families affected with a one-off rent waiver, so as to display a gesture of concern and offer compensation? The Government has provided no compensation whatsoever since the outbreak of the incident, except a water filter and an undertaking to follow up on the cases of children who are suspected of suffering from developmental retardation. I think the Government should provide resources and financial assistance in this respect, because the affected families have already been under immense pressure. It would in fact be a very torturing process if their cases have to be brought to the court and they are required to come forward and testify, since the whole process may take 6 to 10 years to complete.

However, this does not mean that the Government need not make any compensation. The Bureau does have the power to offer compensation, and a proposal can be put forward jointly by the relevant bureaux, because this is a consequence of the incident. A reconciliation can finally be worked out in the Lehman incident because a compensation of 60% and even 100% of the amount of fund involved has been offered by banks, so that elderly victims have been compensated for their losses. I do not think the Government of the new term

can play deaf and dumb in this matter, thinking that it can simply be settled with the improvements made under the Bill. I will keep monitoring the Government's efforts in following up the cases of affected children, although it would be difficult to substantiate many of their allegations. It is true that in order to produce evidence on criminal and civil liability, a number of tests have to be satisfied, including the test of "beyond reasonable doubt" as far as criminal cases are concerned. The situation of the relevant victims should indeed be very bad, they will be made to suffer even more hardship if they lose their cases, and we therefore concur that it is not a good idea to bring their cases to the court.

Nevertheless, this does not mean that the Government need not make compensation to these affected families. As for the doubts involved, although we cannot prove that their cases are completely relevant to the incident, there are indeed some serious cases in the PRH estates involved, and some children are found to have mental retardation, while their parents do not have such a problem. Hence, will the current-term Government handle their cases? In my opinion, apart from putting the relevant legislation and mechanism in place, the Government should also tell us what it is planning to do to offer compensation and affix the responsibility. Has a study been conducted jointly by the relevant bureaux within the Government on the establishment of a compensation mechanism in this regard, including the granting of rent waiver? The Secretary has taken over as the principal official responsible for matters in this regard in the current-term Government, and if he is willing to assume responsibility for this, I am sure all PRH residents affected will be deeply grateful for his kindness. This will also become a major achievement in his term of office.

Thank you, Deputy President. I so submit.

MS ALICE MAK (in Cantonese): Deputy President, since the incident of excess lead found in drinking water had come to light, the public has become more alert to the safety of drinking water, while the Government submitted the Waterworks (Amendment) Bill 2017 ("the Bill") in response to the report released by the Commission of Inquiry into Excess Lead Found in Drinking Water in order to help enhance the regulation of the workflow of waterworks during the construction stage to prevent problems and ensure that the skill level of respective trade of the plumbing workers responsible for the construction as well as the construction workflow can meet more stringent requirements. It aims to ascertain that the public can enjoy drinking water of a higher degree of safety.

I am among the members of the Bills Committee responsible for the scrutiny of the Bill. One of the key points under our discussion at the Bills Committee is about how to guarantee that registered plumbing workers can lawfully carry out the construction on construction sites (i.e. to work under proper instruction in accordance with the law) and how workers can be allowed the opportunity of raising a defence of reasonable excuse to safeguard their own rights and interests in the event that something similar to the safety issue of drinking water equipment in the lead-in-water incident unfortunately happens.

In the course of the scrutiny of the Bill by the Bills Committee, various meetings with the Government were jointly held by representatives of the Hong Kong Federation of Trade Unions ("the FTU"), the Hong Kong Construction Industry Employees General Union, the Hong Kong Plumbing General Union and business associations. Moreover, representatives of those trade unions had also met with the Government separately several times to discuss in detail the contents of the amendments to the Bill. During the discussions, we focused on how to put workers in a position where they can lawfully carry out construction and how to safeguard their rights and interests in the event of any problem arising by allowing them the opportunity to raise a defence of reasonable excuse. The Government proposed some amendments accordingly after having numerous encounters with us. We welcome that the Government proceeded to come up with relevant amendments after listening to the views of both the trade unions and workers and hope that it will also listen to the views of frontline workers in formulating any other provisions of the Waterworks Ordinance ("WWO").

The main body of the Bill is about allowing skilled workers registered under the Construction Workers Registration Ordinance ("CWRO") for the designated trade divisions and general workers under the instruction and supervision of a licensed plumber or relevant skilled worker to lawfully perform plumbing works, thereby recognizing the contribution made to the plumbing industry by relevant construction workers. In fact, if the construction of plumbing systems can only be carried out personally by licensed plumbers as before, then we can imagine that there must be shortage of manpower. Therefore, the Bill serves to establish the position of the registered construction workers concerned where they can lawfully carry out constructions and I am in favour of this. Yet, we also note with concern that the responsibilities of the contractors and relevant professionals have not been delineated in the existing WWO. We have been worrying that the workers will have to bear the responsibilities of the contractors, professionals or their employers as a result.

And so we had negotiated with the Government for a number of times on the issue of criminal liability of workers in the event of contravention of WWO during construction.

The original intent of the Bill, which proposed to add a statutory defence provision of allowing workers to make a defence for themselves, is actually commendable but we still find it inadequate because the workers will have the burden of proof then according to the Government's original proposed amendments, making it difficult for plumbing workers in general to defend themselves by invoking the defence provision. Therefore, we worry that this will generate pressure on workers and cause them to worry. After we have relayed our concerns to the authorities, the Government revised the amendment to the effect that only those who deliberately contravenes the law will be held liable. Thus, the workers need not take the initiative to invoke the defence provision as the burden of proof remains on the prosecution side at all times. I will further explain why we support the amendments proposed by the Government later during the discussion on the amendments by the committee of the whole Council.

In addition, a prosecution must commence within six months from the time when the offence was committed according to another original provision proposed by the Government, which has now been amended so that any prosecution under the WWO may be brought within a period of six months from the date on which the offence is discovered by the Water Authority. This helps differentiate the time at which the offence was committed from that of subsequent discovery of the offence. And later during the session for deliberation on the amendments, I will also explain our reason for supporting the further amendment proposed by the Government lies in that this particular piece of amendment helps make a worker's degree of liability proportionate to whose involvements in the works.

In summary, as far as the Bill prepared by the Government this time is concerned, we are pleased to see that the Government was willing to communicate with workers and has adopted the views of both the trade unions and workers in making the Bill comprehensive regardless that the time required for scrutiny was longer than expected. This has helped put workers' mind at ease and win trade unions' support for the amendments. Registered workers' role in lawfully carrying out constructions can be established while supply of water safe for drinking will be guaranteed if, with our support, the amendments to the Bill are passed by this Council.

I also want to take this opportunity to talk about the issue of further training for workers. Some Members have mentioned just now that workers are required to attend work-related courses and training programmes because they have only registration cards but not any licences for respective trades. They can choose to renew their registration for three years or five years. However, under the principle of "designated workers for designated skills", a worker's registered skills for respective designated trade divisions are all shown on whose registration card. Some Members are of the view that the Government should require workers of different designated trade divisions to receive relevant training and attend courses on drinking water safety each time before renewing their registration. Actually, FTU is definitely supportive if workers will be given more opportunities to attend courses or training programmes so that they become more professional at work. Nevertheless, we also expect that the Government will provide more resources to those training institutes running training programmes for workers and provide financial support to workers who are willing to pursue further studies or receive training because it should be mindful of the current situation of construction workers who are living from hand to mouth. It is perfectly fine if workers are required to spend a few weeks on pursuing further studies or training, but that means they will not earn any income during the period since they cannot go to work then. Given that workers do not have any income protection when pursuing further studies or training, what will the Government do to encourage workers to engage in further studies or undergo training? Hence, it is fine no matter that workers are required to pursue further studies on a voluntary or compulsory basis, but the Government will have to address the income issue then if workers are made to further their studies on a compulsory basis. For instance, will a worker who is required to attend a three-month course get paid whose full salary during the three-month period? If so, there will not be any problem. And so, the Government must have due regard for workers' actual situation. Taking this into account, we advise that while providing adequate training opportunities to workers, the Government should also consider putting in resources to provide them with corresponding financial support.

Besides, in addition to the plumbing industry, we know that other industries within the construction sector are also facing the problem of ageing of workers. The average age of construction workers is now over 50 years old. Therefore, we support the Government's decision of putting in more resources to provide training for various trade divisions to upgrade the level of serving workers' technical skills and train up new comers to join the industries. This will help cater for workers' better professional development and change people's

previous perception of construction workers who were only regarded as ordinary workers working on construction sites. That is to say, workers' technical skills will become even more mature and they can get ready for professional development through participating in training and further studies programmes. We are supportive of this but, as I have pointed out just now, the Government must address the income issue about workers during the period in which they have to pursue further studies or undergo training. If, as suggested by Members just now, workers are required to pursue further studies or undergo training on a compulsory basis, will their participation in further studies or training programmes be regarded as part of their work for which they will get paid or be given subsidies of equivalent amounts? Workers get no pay if they do not work, but they still have to pay the daily living costs even if they are required to attend a three-month course, right? And so, the Government must look into this issue and work out a solution.

As shown in the current revised amendments to the Bill, the Government still failed to delineate clearly the role of developers, professionals and contractors in the design, construction as well as workflow control of plumbing systems on the premises. Besides, their roles, involvements and responsibilities are not clearly delineated. Thus, we opined that the Government should also expeditiously review provisions in this regard and propose amendments as appropriate. I trust that the Government will be able to gain general support from this Council and the construction sector alike if it will adopt the views of relevant trades and the workers in the course and proceed to review and amend WWO in an expeditious manner. If so, we can expect the relevant legislation work to proceed as smoothly as in the case of this Bill.

With these remarks, I support the Bill.

DR CHIANG LAI-WAN (in Cantonese): Deputy President, I speak in support of the Waterworks (Amendment) Bill 2017. This Bill is mainly attributed to the lead-in-water incident and the Government needs to review the out-dated Waterworks Ordinance. Through this amendment exercise, I hope that the Government can ensure safe and quality drinking water for Hong Kong people. Although neither the four words of "safety of drinking water" nor the requirement of setting any standard on water quality are incorporated into the clauses of the Bill, I hope that the authorities will seriously and holistically consider legislation on safety of drinking water in future to ensure the safety of our drinking water.

Looking back at the lead-in-water incident, when one estate after another was found to have excessive lead content in drinking water, the whole community was in a panic. At that time, I was often requested by residents to assist in conducting water tests. The Democratic Alliance for the Betterment and Progress of Hong Kong also mobilized the District Council members and staff of our party in different districts to offer help. So long as there were requests from residents for arranging water tests, we would try to help them as much as possible. I believe that we have helped out in testing over 100 000 bottles of drinking water.

Water is an everyday necessity for everyone. People drink water frequently especially when the weather is dry recently—Deputy President is also drinking water now. Following the disclosure of the lead in drinking water incident, it was found out that excessive lead content in drinking water might affect the mental development of children. We were very upset about this, as we might not instantly understand the condition of some children and were worried about their future development. We kept on following up this issue. Fortunately, after a period of time especially when the lead in drinking water problem was resolved in certain districts, the children were found to be all right in their re-assessment. We should learn from the mistakes. After this incident, we hope that the authorities can attach importance to safety of drinking water.

In regard to this lead in drinking water incident, in the investigation, it is found out that the key problem is inadequacy of licensed plumbers. At that time, there were over 2 000 licensed plumbers in Hong Kong. But due to the ever increasing housing construction projects in Hong Kong, a succession gap occurs in this industry and plumbing workers are in great demand. As I understand, some plumbers have become "document signing" plumbers, who will sign the documents to confirm that certain works, in their view, have generally been carried out. But do they have so much time to supervise the works on the scene, or are the plumbing works only carried out by the general aluminium workers or welding workers? I believe we all understand that they basically do not have so much time. Given this situation, why do the authorities not train more personnel to resolve this problem?

As I understand, if a person wants to apply for a plumber's licence, he has to possess a Craft Certificate in Plumbing and Pipefitting and a Certificate in Plumbing Services (Hong Kong) issued by the Vocational Training Council or an equivalent qualification, and he should at least have four years of related working

experience. According to the veteran plumbers in the trade, in order to become a plumber, one really has to go through a lot of assessments and has to be well versed in both knowledge and skills. Because apart from taking the written tests relating to waterworks knowledge, he also has to understand the whole procedures of applying for water supply and even has to draw the various diagrams of the entire water supply system in a building. In addition to diagram drawing and installation of fittings, he also has to know the works of welding, connecting copper pipes and bending of plastic pipes. I recently saw a press report in which a newly recruited female plumber was interviewed. According to her, her hands have multiple scars due to welding alone, and this job is not easy at all, while it is also very difficult to obtain a plumber's licence. Hence, the shortage of licensed plumbers is getting more serious.

Given the circumstances, will the amendments to the Bill help to alleviate the above situation? It is because according to the amendments, in future, the works will be carried out under the supervision of a licensed plumber, while the technicians who carry out the works also need to have obtained a certain licence. To a certain extent, this should be able to alleviate the situation, because in the past, the workers engaging in soldering or pipe connecting works might not have taken any training courses and would be asked to carry out the works only after a brief explanation. When the present requirements are being laid down, these so-called semi-qualified workers will at least be required to go through certain training before they can participate in the works. With this requirement, I believe that beside the lead-in-water problem, various problems derived from the construction of additional toilets or alteration works in old buildings or subdivided units in the old districts will be reduced.

When it comes to subdivided units, I have followed up on a few cases. There were frequent complaints from the residents about the foul smell coming from the harbour adjacent to Hung Hom Ferry Pier usually two days after the heavy rain. When following up the case, we found that some workers might have wrongly connected the sewage pipes to the stormwater drainage pipes when carrying out the alteration works of subdivided units. It is unbelievable that such kind of mistakes could be committed. In the test conducted by the Government, some pigment drops (red colour, for example) were dripped to the sewage pipes, and after some time, this colour was also seen in the stormwater drainage pipes. This proved that the workers have wrongly connected the sewage pipes to the stormwater drainage pipes, and the wastes were discharged into the harbour as a result. From this case, we learn that this type of

unimaginable things can happen. It is very obvious that these are mistakes committed by some unqualified workers or those without receiving any formal training. I believe that the passage of the Bill will help reduce the occurrence of such incidents.

I would also like to ask a question and hope that the Secretary can respond later. After supervising the works, a plumber is required to sign certain documents. But does the technician who carried out the works also need to sign the documents? This is very important. There were some lift or escalator incidents a few years ago. The works were supposed to be carried out by two technicians. But when the more experienced technician was away for a short while for receiving a phone call or for inspecting other floors, the less experienced technician did not follow the procedures and requirements fully in the maintenance works, thereby leading to the accident.

We now apply this situation to plumbers. In future, will licensed plumbers be the only persons required to sign the documents? Will the technicians who carry the works on the scene also required to sign the documents? In case an accident happens, not only is the plumber liable, but the technician who carried out the works is also liable because he has participated in the works and the plumber should not be solely liable. I think this view is worth considering.

Frankly speaking, for the present projects which can be as large as to cover the whole building or a large construction site or as small as the conversion works on a single floor or inside a unit, it is difficult for plumbers to be in charge of all the related works. May I suggest implementing a three-tier system as a long-term measure? Many housing units are ageing and the units need to have all the pipes renewed. If the pipes are incorrectly connected, there will be dire consequences. However, when refurbishing a housing unit, hardly anyone will employ a qualified plumber to do the works concerned, as exorbitant costs will be incurred. The fitting-out workers of decoration companies in general will not do such works for the clients. Since it is really difficult to follow up this type of works, can we have the junior technicians to carry out such works and sign the documents concerned? The middle ranking plumbers will be in charge of the works for the whole building, while the most senior and experienced plumbers will be in charge of some large projects.

I hope that the authorities can consider my proposal. Nonetheless, I think that since a heavy responsibility is entrusted to a plumber, he may have more and more documents to sign in future and may employ many technicians to assist him in the works. He will also need to inspect more construction sites. But the level of risk is likely to be much higher on a larger project, and accidents may also occur more easily. Therefore, in my view, in addition to requiring the plumbers to sign the documents and be in charge of the works, the authorities should also consider requiring the technicians working on the site to sign the documents as well. I think this can better safeguard the safety of drinking water for the public while the workers on the site also have to take up their responsibility.

Deputy President, I so submit. Thank you

MR WILSON OR (in Cantonese): Deputy President, the Democratic Alliance for the Betterment and Progress of Hong Kong supports the Waterworks (Amendment) Bill 2017. I speak to relay to the Secretary once again the views of residents on the Waterworks Ordinance which I have received during the district work.

Deputy President, I believe all Hong Kong people including you and me can recall the lead-in-water incident which excess lead content had successively been found in drinking water of some public and private housing estates, Home Ownership Scheme ("HOS") housing estates, as well as educational institutions since July 2015. The incident unsettled us and caused us panic. The Government, as I criticized, was thrown into confusions and chaos that time. The discovery of excess lead content in drinking water reflects a very fundamental problem: there are significant loopholes in the existing waterworks system as well as the entire fresh water supply system. Loopholes are found in the monitoring of the installation works, the approval, monitoring, and checking of materials used in the fresh water supply system, the technical standards for monitoring the materials of fresh water supply pipes and the quality of fresh water during and after the construction works, and the relevant regulatory regime.

Fortunately, having gone through this painful experience, the Government has awakened from a dream. It is fortunate in a sense that the Government is not still in a dream. Former Chief Executive LEUNG Chun-ying said in his last Policy Address that the Government would follow up the recommendations of the

Commission of Inquiry into Excess Lead Found in Drinking Water and formulate a holistic plan to safeguard drinking water quality. It would propose amendments to the Waterworks Ordinance and its Regulations, involving a review of the roles and, more importantly, the responsibilities of all persons engaged in the design and construction of the inside service, and the systems for their registration. We know that the Government would step up efforts to monitor the materials used in the inside service and, by drawing on overseas experience, implement a water safety plan applicable to Hong Kong. We also know that the Water Supplies Department ("WSD") has introduced legislative amendments to clearly define the respective duties and responsibilities of licensed plumbers and plumbing workers, set out the technical requirements and plumbing material standards, review the relevant licensing and registration frameworks, and stipulate the respective duties of developers and contractors. The Bill so drafted has been submitted to the Legislative Council for scrutiny. As an elected Member, it is incumbent upon me to give views on the implementation of these proposals in order to clearly define the roles, degrees of participation, and responsibilities of people engaged in the construction of the plumbing system, including licensed plumbers and plumbing workers, the best known stakeholders of the trade in society.

Deputy President, we concur with the relevant amendments as we think they better meet the policy intents and are more in line with the long-time practice in the trade. For those who have engaged plumbers to work for their premises, they will know very well how difficult it is to hire a plumber. A heavy demand for licensed plumbers is expected if plumbing works can only be conducted by them. The restriction is set to make demand for licensed plumber way excess supply, and thus inflate the costs of the plumbing works. The amendments, indeed, help to provide the plumbing trade with additional manpower without adversely affecting the quality of plumbing works, and are thus conducive to the development of the trade in the long run.

Deputy President, other amendments include the creation of relevant offences and statutory defences, and the giving of power of entry without warrant or consent to the Water Authority to ascertain whether the construction, etc. of plumbing systems are carried out by designated persons. I think the amendments are very desirable. Besides, I also agree to the proposed revision of the time limit for prosecution to help remove the grey area of the entire legislation.

In the course of deliberation, I note that some Members have raised various concerns, including relaying the concerns of the public and the trade over the Bill. I am happy that the Government has heeded their concerns and largely removed the worries of the public by striking a right balance between the regulation over the plumbing works and the protection of the trade.

To enable the plumbing practitioners to better understand the Bill and protect them from breaching the law inadvertently, I suggest that the Government should provide them with specific guidelines on the Bill. I do not know whether relevant guidelines are available now, but I think the Government must draw up specific guidelines to boost the education and publicity work. In my last debate speech, I have time and again reminded the Secretary for Food and Health of the importance of this kind of work. In some cases, the Government has done itself a disservice by not sufficiently explaining its good policies. Misunderstandings would thus arise. Hence, I have to remind the Secretary for Development once again that he has to step up the education and publicity efforts.

Deputy President, I concern myself with the Bill because the safety of drinking water concerns me most. I know it is also the concern of all Hong Kong people. The enactment of the Bill is only part of the efforts to improve the safety of drinking water. There is still a lot of work the Government has to do in order to ensure the safety of drinking water.

Since the occurrence of the excess lead in drinking water incident in 2015, relevant bureaux and government departments have made all-out efforts to follow up the issue. Their efforts are beyond doubt. During the district work, I am able to witness the effective division of work among departments in putting forward a number of remedial measures. Apart from proposing amendments to the Waterworks Ordinance and its Regulations, the Government launched an Action Plan for Enhancing Drinking Water Safety in Hong Kong on 21 September last year. Under the Plan, WSD would enhance its current water quality monitoring programme to collect water samples from drinking taps of randomly selected consumers for testing annually and strengthen the regulatory control on plumbing materials. These are good measures. Besides, WSD would also tighten the commissioning requirements for new plumbing installations, and at the same time promote the implementation of Water Safety Plans for buildings to owners and their property management agencies to provide a systematic approach for assessments of the whole water supply chain of buildings.

The publicity and public education work are crucially important among the various measures. In this respect, I would like to take this opportunity to relay the voices of Hong Kong people to the Secretary. Secretary, I know you have already done a lot for us. But I beg you to step up the publicity efforts. Please do so. Public education and publicity are just crucial.

Deputy President, despite the Government's hard work and the numerous efforts it has made, a recent survey which calls into question the drinking water quality has reignited fear among Hong Kong people, particularly public housing residents. Due to the survey results, I have to rush around during district visits to ask public housing and HOS residents if their tap water is safe. To be frank, this sort of water quality-related incident is expected to reoccur in the future. I remember that another drinking water contamination incident also occurred last November, affecting public housing estates in Kwai Tsing, Tsuen Wan and Sha Tin. Some residents even developed gastrointestinal symptoms after drinking the contaminated water.

What does the frequent occurrence of water quality-related incidents mean to us? To me, this is a proof that the safety of drinking water is the prime concern of members of the public. In this respect, I give my earnest advice to the Government, and please be patient with me. Earlier on, I raised a written question once again on this incident. In its reply, the Government assures us that the system in place is stable and safe, and the monitoring regime is comprehensive. Yet, I wish to emphasize that it is really necessary for the Government to set up a fresh water quality assurance network. What is it for? The aim is to reinforce the water quality monitoring to best safeguard the safety of our drinking water. I know consumption of drinking water is a basic necessity for all of us, and I wish to take this opportunity to once again remind the Bureau of this.

Actually, how does the so-called water quality monitoring programme operate? Under the programme, WSD will only collect water samples on a yearly basis from drinking taps of randomly selected consumers for testing. The collected local water quality data will be kept in a database and be used as a basis to review the appropriateness of adopting standards beyond World Health Organization Guidelines. Regrettably, the water quality monitoring does not cover each and every water outlet from source to tap where the fresh water passes through. During district visits, I have been frequently asked by residents: "Mr OR, has the monitoring system been in operation? Have you paid any inspection visit? Have you monitored the authorities' work? I would like to

relay this question to the Secretary, and I hope the Secretary can give us a reply later on. During this year, despite the fact that the water source is free of contamination, there is still risk of fresh water contamination because the plumbing system which fresh water passes through is not fully monitored. There have been cases of substandard facilities and works. In this respect, what the Secretary can do to take advantage of the amendment exercise to live up to his gate-keeping role? I hope you can give a serious thought about this. These are really down-to-earth views of the public.

Deputy President, I would like to put forward some proposals for the Government's consideration. Apart from the implementation of the Bill, I think the Government should also step up the monitoring of persons engaged in the drinking water installation works. There are rumours in society that some of these persons turn up at works sites only to sign the attendance register in order to "inflate" the attendance figures. I hope that through this legislative amendment exercise, the Government can tackle the problem at root by sufficiently monitoring each and every part of the entire water supply system. From the very first, I think the Government should consider the need to protect the water source. Throughout the water supply process, attention should also be paid to the water treatment technology, the infrastructure of the water distribution network, the plumbing system, and finally the water supply at consumers taps. Staff of the Development Bureau should learn from this experience to improve their work. I support this Bill, and hope that the Government can show its commitment. I am not saying it was lack of commitment in the past. But in some cases, there is no such thing as the best, just better.

Deputy President, finally, I want to talk about the quality of our tap water. To enable the water quality monitoring to cover the entire water supply system, I think we should establish a fresh water quality assurance network with monitoring points throughout the water supply process. By taking care of each and every part of the system, the Government will no longer be criticized for the monitoring negligence. Meanwhile, I also call on the Government to draw on the experience of other countries, including the United Kingdom, the United States, and Singapore which we have frequently mentioned. Indeed, in the Mainland, the rules and regulations governing the drinking water safety are also very advanced. I think the Government can consider studying their practices. The Government must enact specific law to regulate the drinking water. An independent institution for the monitoring and checking of water quality must also be in place. Actually, why we have to work so hard in this area? Many people say we need not be so nervous about the drinking water quality. But as I

often say, the drinking water issue concerns every one of us. I hope that the Secretary can offer us some help. After the passage of the Bill, may the Secretary ask his team to figure out some measures and let us know as soon as possible?

Deputy President, before I stop, I would like to send some words of advice to the authorities. I often follow these words in communicating and meeting with government departments. "If we meet more, we can reduce misunderstandings; if we communicate more, we are on the way to success". Secretary, I hope that you can do so after the passage of the amendments. This is the principle I keep by heart and the motto I often refer to when I deal with various bureaux or government departments and communicate with residents during district work. I hope that the Secretary will bear these words in mind and be more attentive to the fear and worries of the public about the drinking water quality. Following the passage of the amendments, the Secretary should step up water quality monitoring at each and every part of the entire water supply system so as to tackle the problem at root.

Deputy President, I once again express my support for this motion. I so submit. Thank you, Deputy President.

MR HO KAI-MING (in Cantonese): Deputy President, representing the Hong Kong Federation of Trade Unions ("FTU"), I rise to speak in support of the Government's amendments to the Waterworks (Amendment) Bill 2017 ("the Bill").

It is good to be a plumber in Hong Kong indeed. As in many Western countries, the wage level of blue-collar employees in Hong Kong is quite high, in which a licensed plumber can earn up to \$38,000 a month. The income level is almost comparable to that of a member of the District Council. However, why are there not enough plumbers in Hong Kong then? Why are there so few people in the trade? We really have to figure out reasons. Having merely 3 000 plumbers in Hong Kong, is the number enough to meet the needs? Each household in Hong Kong, a city with a population of over 7 million, is supplied with drinking water. Restaurants are provided with water supply too. As regards the water supply facilities in these places, assistance from workers is needed to carry out the construction, installation, maintenance, alteration, repair or removal of plumbing systems. This has been the practice over the past decades.

However, the pressure on licensed plumbers has increased drastically since the lead-in-water incident. With only 3 000 people in the trade which is obviously insufficient, other workers are needed to fill the gap. Therefore, plumbers have to pass certain working procedures to others. Against this backdrop, coupled with the lack of monitoring from the Government, problems existed in solder which led to the incident of excessive lead content in drinking water of more than 10 estates. Of course, in response to the problem, it is reasonable for the Government to enhance monitoring. In this case, we will certainly support the Bill.

The existing Waterworks Ordinance stipulates that specified plumbing works can be carried out by a licensed plumber or a public officer authorized by the Water Authority. The present amendments to the Bill propose that plumbing works can be carried out by a registered plumbing worker, registered plumbing worker (provisional) and other persons under the instruction and supervision of an licensed plumber or a registered plumbing worker.

As I have just said, there was only a limited number of licensed plumbers over the past few decades. Perhaps the Water Supplies Department ("WSD") is itself understaffed too. In fact, the entire trade has relied on assistance from workers of other trades to carry out plumbing works. The Government's amendments are in fact conducive to drinking water safety as they will effectively increase the manpower of the waterworks trade and strengthen monitoring. That said, on top of the enhanced monitoring effort, the Secretary should also consider whether to increase the strength of WSD on the implementation of statutory monitoring work.

WSD is probably a really great department. Although Hong Kong's population has increased substantially over the last few decades, the number of staff in WSD has instead decreased from over 6 000 people during the SARS epidemic to around 4 000 today. The staff to water meter ratio also shows that each staff now has to handle more water meters than before. While we communicated with the WSD staff recently, we have learnt that they are faced with a succession problem, as well as a problem of manpower shortage. I may stray from the topic a little bit, but simply speaking, there are less and less experienced staff in WSD, which are generally referred to as "plumbing masters" in the community. So, we can imagine that there are even less experienced plumbing practitioners outside WSD.

A feature of the plumbing trade is that the persons in charge of projects frequently have to make ad hoc decisions in response to latest situations and developments as not every detail can be covered in the drawing. Once, I discussed a case in Sha Tin with the WSD staff. The case happened over a decade ago, which involved replacing salt water pipes with fresh water pipes. There was a problem which was not shown in the drawing, and the whole plumbing replacement project would not go on without solving the problem. Am I right, Director? At that time, it happened that some seasoned personnel from WSD were there to oversee the private plumbing works. They were able to practically solve the problem because they were personally witnessing the operation onsite. However, now, if we do not even have sufficient staff with experience in WSD, it is just impractical to expect them to oversee the private works done in the sector. So, the Secretary probably has to review if WSD has the manpower to meet the needs, especially when the staff have to handle these jobs today and, in addition, issues relating to chlorine in the future, not to mention the substantial increase in population and the expansion of the plumbing network in the territory. Does the Department really have enough workforce? Or, is it because Hong Kong's waterworks are so stable that the Government has neglected the staffing need? I believe the Secretary has to sort this out.

It is a fact that WSD is understaffed. Workers are worried too, as the private sector does not have sufficient staff as well. In relation to the private sector, actually we have been in close contact with trade unions in the construction sector and the plumbing sector. The unions are concerned about the proposed new sections in the Bill relating to criminal sanctions. Indeed, the choices of materials are out of their control as the materials are specified or provided by contractors. Workers simply do not know if the materials meet the standards. Simply following their bosses' orders, workers are in fact innocent if penalized in this respect. The Government originally proposed that workers should invoke the defence provision and defend themselves, but many grass-roots workers, blue-collar workers, do not actually know how to defend in court. Therefore, they are anxious that they will be made scapegoats when problems arise. Ms Alice MAK from FTU repeatedly relayed trade unions' opinions to the Government. After various rounds of deliberation, the Government at last proposed an amendment that as long as the offence was not committed "intentionally", workers will not be prosecuted. So, workers will only be prosecuted when proven to have committed the offence "intentionally", and the burden of proof should fall on the Bureau, removing the need for workers to invoke the defence provision for self-defence. Therefore, FTU supports this amendment.

In fact, the current amendments will formalize the existing practices of the trade, and will establish statutory regulation to legalize the plumbing works done by workers, thereby increasing the labour supply for plumbing works. Nevertheless, owing to the succession problem in the trade, both the private sector and WSD may have to outsource their plumbing works to other private contractors. These are what happening at this moment. While the Government and the private sector have manpower shortage, when will we ever have enough hands to carry out the plumbing works? Now that the Department outsources many plumbing works to previous staff or retired staff, but then if they are the ones responsible for the government plumbing works, and that they are also the ones responsible for the plumbing works outsourced to the private sector, while their strength may be able to cope with the workload in the next few years, yet when these newly retired practitioners reach their seventies and are no longer able to work, where can we possibly get the hands we need then?

We were told by WSD that there was an trainee programme for training purpose in the past. As a matter of fact, the plumbing sector is highly monopolized in which WSD is the key player, while the expertise on the overall operation of the sector is exclusive only to a certain number of people. The previous programme helped train new blood for the sector and opened a career path for them. Trainees were willing to join the trade after seeing the future picture of their personal development, knowing that they can build a better life along the way. However, the programme was cancelled now. For example, the chairman of our union was formally a workman. Today, he is a Senior Technician Officer. However, is there any such career ladders in place to show the young people the kind of future being a licensed plumber will bring them, that they can support their families and find their places in Hong Kong as long as they are willing to devote their efforts? I guess we cannot delivery such a clear message to young people nowadays, a message that this is a sector with potential. As far as I can see, the Department or the practitioners in the plumbing trade know this message very well.

As the leading player in the waterworks industry, either WSD or the Bureau will perhaps have to enhance education and show that the sector has a bright future. The message must be made clear to the public so as to attract newcomers to the sector. Considering the wage of \$38,000 for a plumber, I guess people do not have scramble to run for District Council elections if they can all get such an income. They can become licensed plumbers instead, which is a good way to go in fact. In a place like Hong Kong where diversity is lacking, it

is a sector which exactly provides the diversity needed to offer a way for the people to lead a decent life in Hong Kong. The Government should strengthen publicity to encourage more people to enter the sector.

Plumbing works are truly complex tasks. Short courses offered by the Construction Industry Council generally take three months to complete, and trainees have to pass written and practical tests in order to become a general plumbing workers. They will have to take part in one or two more years of practical training before they can take the skilled worker examination. Though semi-skilled worker examination has a passing rate of over 70%, the passing rate of entrance examination regarding skilled worker is merely 36%, indicating the extremely high threshold. So, how can we attract young people with the right quality to join the industry and, on top of offering courses, identify experienced plumbers and water workers to pass the skills and give fundamental training to young people? The Government or the Department probably should consider how to secure the succession of the know-how in plumbing works. The Government is duty bound to do so.

We learnt from the discussion with trade unions yesterday that they are trying to contact the "plumbing masters" with a view to passing their experience to the next generations. This is a good way of succession. I know that the Director is actually working on this too, so I hope the Secretary can strengthen support to the Director for the tasks of sustaining the development of Hong Kong's plumbing sector. In fact, I always believe that the Government has not been fair to such a fine department as WSD because it only provides the department with extra staff when there are new tasks. Of course we wish every department to optimize its performance. That said, suppose a power company has already achieved a service stability rate of 99%, we will then ask for perfection to top up the last 1%. The people has such an expectation. But then, do we really need to reach such a flawless level? How can we improve and reach the kind of balance that enables the effective use of public resources within the capacity of the manpower available? In my opinion, the Government has to illustrate this publicly.

It turns out that getting a plumber licence is even more challenging. Trainees interested in attaining a Craft Certificate in Plumbing and Pipefitting issued by the Vocational Training Council have to first hold a Certificate in Plumbing Services, or an equivalent qualification, and accumulate four years of working experience. They will be granted plumber licences afterwards. Therefore, it is quite a formidable task to ask the 3 000 practitioners mentioned

above to finish all the jobs by themselves. If the authorities can manage to tell the public that persons having these qualifications can be a plumber, and plumbers deserve higher pay, then more young people will be willing to join the trade and protect Hong Kong's drinking water safety.

I understand the high threshold of a licence is the first step to protect drinking water safety for the people. However, the Government cannot adopt a laissez-faire approach simply because there are not enough workers. It has to enhance publicity to draw more capable young people to the trade where they will acquire new knowledge and be more versatile. Academic development is not the route suitable for all, and some young people may be talented in other aspects and are therefore able to fit in and excel in other sectors. Therefore, we hope the Development Bureau can join hands with the Education Bureau to thoroughly review issues related to training and consider if a corresponding certification system can be set up under the qualifications framework. I do not know if the plumbing sector is already put under the framework at present, say, whether the qualification can be equivalent to a university degree upon reaching a certain level. Even if plumbers are already covered by the framework, I guess the public may not be able to get the message. So, by means of the qualifications framework, if the Government can let young people in the plumbing sector know that they can attain the same level as university graduates after becoming plumbers or achieving relevant qualifications, it can truly encourage more blue-collar workers to serve Hong Kong and solve the manpower shortage problem, as well as improving drinking water safety.

With these remarks, Deputy President, I support the amendments to the Waterworks (Amendment) Bill 2017. Thank you, Deputy President.

MR SHIU KA-CHUN (in Cantonese): Deputy President, although it has been reported that the pro-establishment camp intends to filibuster to stop pan-democrats from moving the motion on summoning Teresa CHENG, I still wish to speak on this amendment because I need to speak for WONG Chun-kit. WONG Chun-kit is a child who came to me for help. I certainly have reflected his case to the Social Welfare Department ("SWD"), but I also wish to take this opportunity today to tell the case of WONG Chun-kit in this Council.

WONG Chun-kit is a seven-year-old child. He and his mother moved to Wing Cheong Estate in April 2015. In less than three months after they moved in, the drinking water in Wing Cheong Estate was found tainted with lead. The

Government arranged a blood test for WONG Chun-kit. The test result shows that his blood lead level reaches 5.92 micrograms per decilitre, which exceeds the normal level. WONG was then confirmed by doctors of having attention deficit hyperactivity disorder ("ADHD") and dyslexia. Secretary, I know you would immediately say that there is no direct relationship between drinking lead water and mental retardation. I know you will tell me that his mental retardation can be caused by many different factors. I know.

But the Report of the Commission of Inquiry into Excess Lead Found in Drinking Water states that children with a blood lead level of 5 to 10 micrograms per decilitre are 5.2 times more likely to have ADHD than normal children. The Department of Health also says that among the 126 children with slightly higher than normal blood lead level, nine have symptoms of development retardation, and my client WONG Chun-kit is one of them.

His mother told me that before they moved in Wing Cheong Estate, her son seldom had big tempers. She thought that changes in the environment after moving to the new home might have caused his emotional changes, and I can identify with her on this point. But he became increasingly emotional and violent after moving into Wing Cheong Estate. He lost his tempers if things did not go his way and he might even kick around. WONG got emotional easily and could not focus on his homework. According to his mother, he needed someone to accompany him to finish his homework; otherwise, his concentration would be easily disturbed for any minor matters. He could not finish writing two Chinese characters in 20 minutes. When a door was opened, or he heard the sound of the wind, or a neighbour walked by, he lost his focus. Not only was he unable to concentrate on his homework, he was also unable to properly eat his meal.

His mother told me that he ate his bowl of rice grain by grain. There was a time he took four hours to finish rice. By the time family members were ready to go to bed, he still did not finish eating his rice. He played and ate and studied at the same time. Even if the television was not turned on, he remained moving around. Although the Government says that the lead-tainted water will not directly affect the development of a child, his mother feels that the changes she sees in her son are caused by the lead-tainted water.

Deputy President, after his symptoms were confirmed, WONG Chun-kit was arranged to receive early speech therapy. His symptoms were then improved. His conversation became more logical and his emotions were in control. This is good news. But regrettably, the Government says that there is

yet any financial assistance schemes for students aged six or above with special education needs that is applicable to social organizations, and the policy on pre-primary special education for children aged six or below no longer applies to WONG Chun-kit. Since WONG already reached the age of six in August 2017, he was no longer eligible to receive this service. What about paid services? The service fees are too expensive to them, which cost some \$1,500 per hour with the cheapest still costing \$700. They cannot afford the services. As for public services, the earliest speech therapy appointment is scheduled in March 2019, and there will be no support services in the interim.

Deputy President, I wrote to SWD on this case, requesting SWD to follow up the case again. In the process, I unintentionally found that social workers also have a role to play in the lead-in-water incident. Secretary, do you know that there is a social worker team in the Water Supplies Department ("WSD")? WSD has a social worker team which is already in operation. It is an out-sourced team provided by other organization by tender. The social worker team is established to exclusively handle and follow up cases or complaints on lead-tainted water. To put it in a nice way, the team is to "follow up" these cases, but you and I know no better that the team actually serves to let people vent their anger.

Deputy President, I certainly support this Waterworks (Amendment) Bill 2017 ("the Bill") proposed by the Government. But apart from the problems concerning the water source or the plumbers which Members just mentioned, I want to say that relying on the Bill alone cannot put an end to the matter. There is a lot of follow-up work to do, including WONG Chun-kit and including the awareness that the Government cannot shirk the responsibility to the social worker team and then escape without a trace. We often say "a wise man submits to circumstances". WONG Chun-kit is a seven-year-old child. Her mother has a lot of expectation on this child, hoping that he will become a wise man one day. Apart from being a wise man who submits to circumstances, I also hope that those who talk about the lead-in-water incident will not forget about Chun-kit.

(THE PRESIDENT resumed the Chair)

President, I so submit.

DR KWOK KA-KI (in Cantonese): President, I speak in support of the Waterworks (Amendment) Bill 2017 ("the Bill").

President, we would not forget the lead-in-water incidents which happened years ago. That was the reason why the Administration has introduced this Bill. Back then, a total of more than 40 places were found to have excess lead in drinking water, most of which were the public rental housing estates under the Housing Authority. As we may recall, such incidents happened in Kai Ching Estate, Kwai Luen Estate and Shui Chuen O Estate. In particular, in the case of Kai Ching Estate, the excess lead in drinking water might have come from the Mainland's prefabricated components fitted with pipes. At that time, both residents and Members were infuriated by the Government's incompetence in handling the incidents. I still remember that, during a visit of government officials, a resident asked a Director of Bureau to drink a glass of water. Regrettably, the then Chief Secretary for Administration not only did not apologize sincerely on behalf of the Government, but blamed the resident who made the request.

In order to expeditiously solve the problem with drinking water, the Government introduced the Bill. The proposed amendments therein are made mainly based on the Waterworks Ordinance (Cap. 102) and the Construction Workers Registration Ordinance (Cap. 583). The Bill also seeks to impose regulation on workers and even provides that the plumbers who are responsible for carrying out specified plumbing works may be charged. Just now, many Members also talked about plumbing workers who are categorized into skilled and semi-skilled workers.

I will not go into the minor technical amendments as I do not have much objection to the Bill. I, however, would like to review where the problem lies. The Government now targets at plumbers and plumbing workers. I cannot say it is wrong for the Government to do so, but as we all know, Mr LAM Tak-sum was only responsible for signing the documents. How could he be responsible to decide on the choice of pipes or solder? The problem was that the main contractor, the subcontractor, the second subcontractor and other interested parties wanted to finish the works in the cheapest way by jerry-building.

We once remarked that the main culprits were some of the local construction companies, including China State Construction. The Government, however, has attempted to play down the incidents by introducing the Bill. Can

this Bill prevent drinking water from containing lead again? Being a rather pessimistic person, I do not think it can prevent this from happening.

The Government now targets at workers and plumbers, who are at the lowest tier. They only work for a living. It is the subcontractors or the main contractors (such as China State Construction) who decide on the choice of materials or solder. Some may argue that these workers could have refused to carry out the works—here in the Council, we also have some Members who claim to represent the labour sector—however, we must understand that for most of the time, workers are powerless to defy their bosses. Members from the labour sector should not just speak up for the Bill, they should point out that workers were not the main culprits of the incident. Unfortunately, workers, including licensed plumbers, have now become the scapegoat. In fact, we all know that it is the main contractors and companies like China State Construction, instead of plumbers, who are making hundreds of millions of profits out of the use of leaded pipes or facilities.

We do not oppose the Bill introduced by the Government. The Development Bureau, in its response during the scrutiny, also advised that we should first work on the Bill. After that, the Bureau would seek to impose the necessary liabilities on parties like the major contractors, subcontractors and engineers who had a role to play in decision making. This is the view that I have heard of before. During the scrutiny of the Bill, the officials also repeatedly said that it was necessary to do so. I will keep an eye on this issue to see when such amendments will be introduced to the Legislative Council. I hope that the Secretary will respond to me later.

Will these measures be effective in solving the problem? The Waterworks Ordinance (Cap. 102) is a law governing low level issues, such as the definition of pipes. The Bill seeks to expand the ambit of this Ordinance to put licensed plumbers, supervisors and plumbing workers under regulation. But is it common for other countries in the world to deal with drinking water issues under a piece of technical legislation which is narrow in scope? The answer is no. In this connection, I moved a motion on "Legislating for safety of drinking water" a few years ago.

Drawing reference from the practices of developed places or places and countries with comparatively advanced safety standards for drinking water, we can easily notice that these places or countries have already legislated for

drinking water. For example, the European Union passed the Drinking Water Directive in 1998; the United Kingdom updated the Water Act in 2011; the European Union revised the standards set out in the Drinking Water Directive in 2014; Australia enacted legislation based on the Australian Drinking Water Guidelines in 2011.

From the relevant laws of different countries, we can clearly see that few countries have adopted a narrow approach as the SAR Government in regulating the safety of drinking water. As we all know, the safety of drinking water is not a standalone issue. It involves water sources, water storage systems, water supply systems, new pipe connections and the use of solder as stated in the Bill, as well as drinking water which is eventually supplied to individual households or housing estates. All these issues are inter-related. While we do not legislate for the safety of drinking water, we enact legislation to regulate the installation of water pipes, the use of solder and the engagement of workers for plumbing works. This practice is simply undesirable.

The Government has advised that the Water Supplies Department ("WSD") can address all these relevant issues. Is WSD capable of doing so? I do not think so. In many places, water supply systems are operated by the government or under public-private partnership. However, no one will assume or say for sure that a government-operated system needs not be monitored or will always be safe. It is against the spirit of the law. While we have the Police to be responsible for law enforcement in Hong Kong, does it mean that we do not need to enact laws to protect the people? No one will say so. Similarly, while we have the Customs and Excise Department to take charge of law enforcement, does it mean that we do not need to enact other laws? We still need to have some updated laws with wider ambit.

Secondly, it was after the lead-in-water incidents that people of Hong Kong were aware that tests had not been conducted by the Administration under the Water Safety Plans. The tests carried out by WSD are only some basic ones on pH value, whether there is sand in water, and so on. These tests are utterly irrelevant. In fact, when it comes to the safety of drinking water, the standards set for heavy metal content (including lead and chromium), carcinogenic substances and organic substances are of vital importance, particularly when our drinking water mainly comes from Dongjiang.

Some Members said that the water source of Dongjiang was fine. Yet, we all know that both the environment and the water source are subject to changes, even though the problems with water source may not be known to us at the moment. Also, the local authorities would make good preparation before receiving the delegation of the Legislative Council. Do you think they would bring the delegation to a polluted water source? Most importantly, the relevant problems must be dealt with according to the law.

The Government has never undertaken to legislate for safety of drinking water, not even now. What it proposes is to continue to rely on Cap. 102 to deal with this issue. As we all know, Cap. 102 mainly regulates technical issues, as well as downstream issues such as pipe materials and solder. However, the drinking water risks faced by us today may not be related to copper pipes and solder. Instead, they may be originated from problems like water quality.

Under the existing legislation, water collection and supply facilities in catchment areas and reservoirs are regulated. Nevertheless, only a small portion of our drinking water comes from local reservoirs. Most of our drinking water comes from Dongjiang in the Mainland. Before Dongjiang water can be supplied to Hong Kong, it has to flow through some Mainland facilities such as pipelines. How can the Administration regulate pipelines in the Mainland? Cap. 102 only regulates facilities in Hong Kong. What should we do if the procedures adopted by the Mainland are relatively loose?

Therefore, I think legislating for safety of drinking water can urge the Government to undertake or guarantee that it will provide high-quality drinking water. After the enactment of such law, the Government may change its closed mindset, that is, make some efforts to tide over the crisis, so that when it comes to the time to regulate major contractors, the incident will be a thing of the past, long forgotten by the people.

In fact, the Government is very smart. It often buys time to muddle through. Perhaps, when the same thing happens again, the incumbent officials, including the Secretary for Development and the Director of Water Supplies, have already retired or have been transferred to other positions. The SAR Government often says that it will govern in accordance with the law. It is also my belief that the rule of law is crucial to Hong Kong. However, I do not think

the Bill alone will offer Hong Kong a way out if no comprehensive legislation is enacted for safety of drinking water.

Time is running out but I would like to repeat one point, i.e. we should set up an independent regulatory body to monitor the safety of drinking water. It should be empowered to conduct drinking water sampling tests, draw up standards for drinking water and require all water supply systems to comply with the relevant guidelines and benchmarks. This is the way to safeguard the quality of drinking water in Hong Kong. The Government should stop taking patch-up measures as it does at present.

I so submit.

MR LEUNG CHE-CHEUNG (in Cantonese): President, on the question of whether the current legislative amendment is no more than a "patch-up measure", we can actually tell the answer from the discussion process of the amendment of the Waterworks Ordinance ("the Ordinance"). Given that the Ordinance has a history of more than 40 years, I think it is appropriate to conduct a review now. What is more, the lead-in-water incident that happened in 2015 had attracted public concern. After the uproar, in retrospect, we found that the Ordinance was so outdated that the Administration could hardly institute prosecutions and identify the parties to be accountable. The LAM Tak-sum incident is a case in point.

The Waterworks (Amendment) Bill 2017 ("the Bill") seeks to amend the Ordinance by clarifying ambiguities and further defining responsibilities. The Bill clearly provides that licensed plumbers are required to apply for permissions from the Water Authority before commencing any plumbing works and to certify that the plumbing works comply with the rules under the Ordinance upon completion. As these amendments can further clarify the role and responsibilities of licensed plumbers in plumbing works, I will give them my full support.

While lots of issues have been covered in this review, one of the most important issues is how the present construction of plumbing systems (including inside services and fire services) can be ... as fire services have long been covered by the Ordinance, they are not excluded from the Bill. In other words, the current amendment of the Ordinance is very important in the sense that it

concerns not only the safety of drinking water but also fire safety. I will talk about the safety of drinking water later.

Plumbing works are currently regulated by existing legislation. Plumbers, after applying for constructing or altering plumbing systems, must wait for the permissions of the Water Authority before they can commence their works. However, after such permissions are granted, will the plumbers do the works by themselves? Of course not. We all know that. Otherwise, the LAM Tak-sum incident would not have happened. The plumbers, after obtaining permissions for their applications, will hire workers to work for them but these workers are often less knowledgeable.

As said by some colleagues just now, generally speaking, licensed plumbers received years of training in the Vocational Training Council and got a licence upon examination. As for some senior plumbers such as those who joined the industry before 1987, they may have to meet certain requirements before obtaining a licence. In order to meet such requirements, one has to be familiar with the laws and procedures. It is not something that ordinary workers can achieve. The workers hired by plumbers for the works may easily make mistakes, some of which may involve contravention of law. As the workers may not be aware that they have committed an offence, the Administration will issue clear operational guidelines to plumbers and their appointees (including plumbing workers) to explain the amendments introduced in the Bill. How to institute prosecutions in future against workers who make mistakes is actually a matter involving procedural issues. In other words, the Water Authority will have to examine whether the procedures taken in the relevant construction works have contravened the Ordinance before any prosecution may be brought.

Regarding how a worker can establish that he/she believed that carrying out the plumbing works would not contravene section 14(3) of the Ordinance and it was reasonable for him/her to so believe, the Water Authority will have to prove otherwise. To put it the other way round, workers can have a defence. Therefore, the Ordinance can, on the one hand, regulate the works process and, on the other hand, prevent ordinary workers from being caught inadvertently. As a member of the Bills Committee, I think this arrangement can provide different parties with considerable protection and opportunities of defence at the same time. I would say it is a reasonable arrangement.

Time limit for prosecution is also covered by the current amendment of the Ordinance. At present, prosecution against offenders may be time-barred due to the lapse of over six months between the time the offence is committed and the subsequent discovery of the offence. The Bill therefore proposes an amendment to the effect that a prosecution may be brought within a period of six months from the date on which the offence is discovered by the Water Authority. It further provides that no prosecution may be brought after six years from the date on which the offence is committed. This amendment is in line with the arrangements under other ordinances. The aforementioned are the amendments proposed in the Bill and we consider them acceptable.

Another thing that draws my concern is that, upon the implementation of the Bill, how ordinary plumbing workers will respond to the new amendments introduced by the Government or how they will interpret these amendments. We hold that adequate publicity and education efforts should be made after the implementation of the Bill so that plumbers and plumbing workers can fully understand their roles, as well as the changes in their roles.

As regards the entering of premises to ascertain whether the plumbing works are carried out by designated persons, I think the current amendments in this respect are appropriate and I will support them. However, I would, in the meantime, suggest the Administration conduct extensive publicity before exercising the relevant power to avoid unnecessary resistance. These are my views on the current legislative amendment. I so submit.

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

MR CHEUNG KWOK-KWAN (in Cantonese): President, I speak in support of the Waterworks (Amendment) Bill 2017 ("the Bill") under discussion.

I think no one would query the importance of water quality to all Hong Kong people. It is something that we all agree to. Undeniably, in the past, especially before the occurrence of the lead-in-water incident, we took water safety for granted and often neglected how to ensure water safety. What was the situation before the lead-in-water incident? For all I know, the Water Supplies Department ("WSD") did not have its own set of quality water standards at that time. Did it adopt the standards of the World Health Organization? Or was it

true that Hong Kong did not have its own set of standards? In fact, the standards were unclear at that time.

Apart from WSD, both the Housing Department ("HD")—public rental housing ("PRH") developer—and private housing developers knew that leaded materials were prohibited in the soldering works of housing projects. Therefore, it was stated in the then works contracts, including HD's contracts for PRH construction, that contractors were not allowed to use leaded solder. Unfortunately, a blind spot arose in something that we had taken for granted. No one knew why and when leaded materials were used in the construction process.

Just now, when Dr KWOK Ka-ki spoke, I learned that he would support the amendments proposed in the Bill. However, as always, we would not hear from him words of appreciating the Government for making good efforts or for readily accepting good advice. Secretary, do not worry. Although Dr KWOK did not commend you and criticized the amendments in the Bill for making workers a scapegoat of the solder issue, that was just fine. He gave his support to the Bill at the end of his speech. Therefore, Secretary, you do not have to worry. That is how the Council operates. While you should be open to some criticisms of Members, you need not show too much concern about some unreasonable criticisms. But that is fine. Eventually, he will vote in favour of the Bill.

Why do I say so? That is because I do not quite agree with the view that the Bill seeks to find a scapegoat. As I said just now, the lead-in-water incident revealed that our entire community, including WSD (as reflected in its demand for water quality), HD and developers (responsible for housing construction), workers, as well as members of the public, had a blind spot on this issue. According to my understanding, no one used leaded materials deliberately to jeopardize public safety. I recall that after the lead-in-water incident came to light, a soldering worker said to me, "Mr CHEUNG, I am a soldering worker and most of the time my work is to connect pipes for PRH estates. My family lives in PRH; my friends live in PRH too. Why would I use leaded solder intentionally to threaten the safety of my family and friends? How would I be that bad?"

I would say that, in this past incident, there was a systemic error or a blind spot which caused pipe solder to contain lead. Of course, no one would want to

see this happen and the problem should never recur. All stakeholders in the community want to get rid of this blind spot. In this Bill, the amendments proposed actually seek to clarify some obligations to prevent similar systemic errors from happening again. I therefore do not share the view of Dr KWOK that the Bill intends to find a scapegoat.

President, as stated in the report of the Bills Committee, under the existing legislation, the relevant works may only be carried out by licenced plumbers or public officers authorized by the Water Authority. In the Legislative Council Brief provided by the Development Bureau earlier (i.e. in 2017), it was however pointed out that: "Despite the language of the legislation, it has been the policy intent and the industry practice over the past decades that licenced plumbers may be assisted by workers in carrying out the construction, etc. of plumbing systems." The law provides that the relevant works may only be carried out by licenced plumbers or authorized public officers; yet, that is not how the industry operates. The Bill hence seeks to clarify who may and may not carry out such works. I think it is a practical approach.

With a stipulation as to who may and may not carry out the relevant works in the Bill, if those who are not allowed to carry out the works have engaged in the relevant works, they will contravene the law. The argument then arise is the defence provided in the Bill. As stated in the report of the Bills Committee, the Government has provided for a defence in respect of this incident. Should there be any non-compliance in the works, it is a defence for a worker to establish that he believed that carrying out the works would not contravene the law and it was reasonable for him to so believe.

It is noted that many members of the Bills Committee have found this defence deficient. If there are problems with the works and the Government intends to prosecute a worker, the worker is asked to establish that he believed that the works would comply with the legislation and it was reasonable for him to so believe. Objectively speaking, the Government has already formed the view that there are problems with the works, the worker thus cannot easily prove that a reasonable man would have believed that the works would not contravene the law. The standard actually cannot be met easily. A number of members have therefore suggested in the Bills Committee that a more appropriate standard should be set for technicians or workers to make a defence in case of non-compliances. On this point, I have to praise the Bureau. It has, after noting the views of the Bills Committee, proposed an amendment to the effect

that a worker will only be liable if he clearly knew that the works were carried out in contravention of the law. I think the revised defence provision amendment is much clearer than the original version mentioned previously and workers can rest assured in doing their work. I must commend the Bureau on this point.

Time limit for prosecution is another issue which has drawn the concern of the Bills Committee. At present, a prosecution under the Waterworks Ordinance or the Waterworks Regulations must commence within six months from the time when the offence was committed pursuant to the Magistrates Ordinance. This time limit applies to many other similar cases. The current amendment provides that a prosecution may be brought within a period of six months from the date on which the offence is discovered or comes to notice, compared to the old rule of six months from the time when the offence was committed. In other words, for non-compliances discovered long after the completion of works, the time limit for prosecution will be relatively longer because the six-month clock starts ticking at the time when the offence is discovered.

I appreciate the need for this amendment. For most of the time, non-compliances are not discovered right after completion of works. Certainly, many workers will have the following concern. Given that they have worked at different sites for different works projects, if suddenly someone tells them that they will be prosecuted for non-compliances in a works project carried out years ago, they are worried that they may not be able to recall where they worked years ago and what happened on that day. Should soldering workers be required to keep a log book for their daily work? It will be very difficult for workers to put up a reasonable defence when they are prosecuted.

Therefore, some members have asked whether it is feasible to provide that no prosecution may be brought after six years from the date on which the offence is committed so as to draw a clear line for all relevant parties. The Administration, in response, has taken into account the time it normally takes to collect evidence for possible prosecutions and has made reference to the relevant provisions in respect of comparable situations in other legislation in Hong Kong. The Administration considers that since it has in recent years stepped up inspection of completed plumbing works, the Water Authority should be able to identify any non-compliance case in respect of such works within six years after the date on which the non-compliance was committed. It means the Administration will set a six-year time limit for prosecution as I stated just now.

I believe the Administration has considered the actual practice of plumbing works and stepped up its inspection efforts to check if there are any leaded pipes and non-compliances soon after completion of works. Therefore, the workers' worry that non-compliances be discovered 8 or 10 years later will be unlikely. In order to safeguard public interest, the Administration has, after giving due and appropriate consideration, accepted our advice and proposed the relevant amendment. In my view, this is a right decision and the Secretary must be commended for his wise decision.

In future, when bills on other relevant policy issues are scrutinized by the Bills Committees, I urge the Government to listen to and carefully consider members' views as it did this time. It should not reject our suggestions mechanically and instinctively and give us numerous excuses to explain why amendments cannot be made. I also hope that the problem relating to the Dutiable Commodities (Amendment) Bill 2017, which was discussed this morning, should not recur. Though the Government had, in response to members' suggestion, made amendments to the said Bill, the contents of the final amendment turned out to be very much different from what the members had suggested. In the end, Members found it hard to give support.

I hope that the Government's amendments to the Bill can set a good example to show us how the Executive Authorities and the legislature can play their respective roles in safeguarding public interest and making proper amendments to the Bill.

President, I so submit.

MR LUK CHUNG-HUNG (in Cantonese): President, originally, I did not intend to speak because Ms Alice MAK and Mr HO Kai-ming of The Hong Kong Federation of Trade Unions ("FTU") have already spoken on the Waterworks (Amendment) Bill 2017 ("the Bill"). However, I cannot but speak up after hearing the groundless accusations of some Members.

As the saying goes, "While the ignorant may be shocked to death, the knowledgeable will laugh themselves to death." President, just now, Dr KWOK Ka-ki of the Civic Party made an alarmist talk—I am not sure if he has read the Bill—and went on at great length highlighting the undue pressure that the Bill might impose on workers, and they might be caught inadvertently. He also

questioned why some Members, who claimed to represent the labour sector, had not spoken up for workers. I will not take this remark personally. FTU met with the Development Bureau a long time ago. I think the Secretaries for Development serving in the last and current terms of the Government are well aware about that. The Hong Kong Plumbing General Union under FTU has met with the officials of the Development Bureau to give views on law enforcement issues.

As regards this Bill, the Government has taken our views on board. Therefore, I have no idea who the Member was referring to when he spoke of Members who claimed to represent the labour sectors. I do not think he was referring to us. He might have to ask some of his friendly political parties, such as the Labour Party. To me, I think Members of this Council should put aside their stances when discussing the issues concerning labour rights and interests. Yet, Members have the obligation to understand the provisions of the Bill and listened carefully to the speeches of other Members. Just now, we had speeches from Mr HO Kai-ming and Ms Alice MAK on the Bill; Dr KWOK Ka-ki should hence stop talking nonsense and making reckless statements. This behaviour must be condemned.

As regards this Bill, the Government has taken on board our views to require the proof of knowledge on the part of workers for the use of problematic materials before making prosecutions. Frankly, if someone has knowingly broken the law, they must be regulated to safeguard public safety. Should we let the black sheep who have broken the law knowingly off the hook? However, I believe there are not many such workers in the trade. I even dare say that there are no such workers. Our workers care much about public health. They are highly professional and will not use leaded plumbing materials, solder or pipes knowingly. Despite this fact, it is still necessary for us to enact law to impose statutory regulation.

The Bill also addresses the issue that plumbing works may only be carried out by licensed plumbers or public officers authorized by the Water Authority under the existing legislation. In reality, many a time, the current plumbing works are carried out by temporary workers or workers with short-term training. Their standards are not on a par with licensed plumbers. The Bill therefore provides that, in addition to licensed plumbers, temporary workers and workers with short-term training working under the supervision of licensed plumbers will

also be allowed to carry out plumbing works. This is to tie in with the actual needs and expedite works progress. We therefore support the Bill.

Once again, I urge Members to study the Bill before speaking. They should also listen to the speeches of other Members before making accusations habitually. Of course, I do remember the wise saying of the President: Members may not always be telling the truth when they speak. However, being responsible Members, we are obliged to rise and clarify the truth whenever there are some other Members talking nonsense. We must clarify the provision of the Bill, as well as the efforts made by many of our friends from the labour sector, particularly those of FTU, to set the record straight. It is as simple as that.

With these remarks, I support the Bill. Thank you.

PRESIDENT (in Cantonese): I now call upon the Secretary for Development to reply. Then, the debate will come to a close. Secretary, please speak.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, Members, first of all, on behalf of the Government, I would like to thank Ir Dr LO Wai-ki and Dr Helena WONG, Chairman and the Deputy Chairman of the Bills Committee on Waterworks (Amendment) Bill 2017 ("the Bills Committee"), as well as all other members and staff of the Secretariat for their tremendous efforts and endeavours over the past period of time. I would also like to take this opportunity to thank all relevant deputations and individuals for their valuable opinions on the Waterworks (Amendment) Bill 2017 ("the Bill"). Their concerted efforts enabled the smooth completion of the scrutiny of the Bill.

As we stated when the Bill was previously introduced to the Legislative Council, in this legislative amendment exercise, it is our wish to prioritize the implementation of the recommendations made by the Commission of Inquiry into Excess Lead Found in Drinking Water on persons designated for carrying out plumbing works and the duties of licensed plumbers so that the Waterworks Ordinance (Cap. 102) ("the Ordinance") can better reflect the policy intent and cater to the industry practice in this respect.

The Bill mainly covers four issues. Firstly, in addition to licensed plumbers and public officers authorized by the Water Authority, the Bill proposes

to allow skilled workers or semi-skilled workers for the relevant designated trade divisions (i.e. plumbing) registered under the Construction Workers Registration Ordinance (Cap. 583) to carry out plumbing works. It also proposes to allow other persons working under the instruction and supervision of licensed plumbers and the relevant registered workers to carry out plumbing works, with a clear stipulation of their respective duties. I will propose revising the duties of workers in my upcoming amendments.

Secondly, the Bill proposes to give legal status to the current administrative requirement stating the duties of licensed plumbers, among which is the duty to apply for permissions under the Ordinance from the Water Authority for the carrying out of plumbing works.

Thirdly, in order to enhance the effectiveness of monitoring of plumbing works, the Bill proposes to revise the time limit for prosecution under the Ordinance to six months from the date on which the offence is discovered by, or comes to the notice of, the Water Authority.

Lastly, in order to ascertain whether plumbing works are being carried out by persons designated for carrying out the plumbing works, the Bill proposes to empower the Water Authority to enter premises, except premises or part of the premises that is used for human habitation, without consent or warrant, where the plumbing works are being carried out, and to exercise the authority to inspect and question.

The Bills Committee held a total of six meetings between May 2017 and January 2018 to complete the scrutiny of the Bill. During the scrutiny, the Bills Committee carefully examined the provisions of the Bill and gave a lot of positive and invaluable advice on both the content and the provisions of the Bill. I am pleased that the proposals in the Bill are generally accepted and supported by the Bills Committee. Meanwhile, after listening to the views of the Bills Committee, we are going to propose a number of amendments based on its suggestions. I will later move the amendments and explain them one by one.

During the meetings of the Bills Committee, some Members gave views on various issues concerning water supplies and safety of drinking water. We fully appreciate their concerns over these issues and will consider and follow up with their views in the holistic review of the Ordinance which is now underway.

Currently, we have a surveillance programme in place to spot check and strengthen the examination of plumbing materials for statutory conformity. As I said just now, we are conducting a holistic review of the Ordinance to, among others, examine the roles and responsibilities of all relevant parties in plumbing works, review and streamline the approval procedures of plumbing works, and examine the regulation of plumbing materials and the maintenance of plumbing systems. We have set up a task force for this holistic review and extensively invited members of the trade, professional bodies and relevant departments to give views on different issues. It is hoped that a preliminary public consultation can be conducted by the end of this year to seek views on some directional proposals.

I implore Members to support the Bill and the amendments that I shall later propose on behalf of the Government in committee of the whole Council.

I so submit. Thank you, President.

PRESIDENT (in Cantonese): I now put the question to you and that is: That the Waterworks (Amendment) Bill 2017 be read the Second time. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Waterworks (Amendment) Bill 2017.

Council became committee of the whole Council.

Consideration by Committee of the Whole Council

CHAIRMAN (in Cantonese): Council now becomes committee of the whole Council to consider the Waterworks (Amendment) Bill 2017.

Members may refer to the Appendix to the Script for the debate and voting arrangements for the Bill.

WATERWORKS (AMENDMENT) BILL 2017

CHAIRMAN (in Cantonese): I will first deal with the clauses with no amendment. I now propose the question to you and that is: That the following clauses stand part of the Bill.

CLERK (in Cantonese): Clauses 2 to 5, 11, 13, 15, 16 and 17.

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 6 to 10, 12 and 14.

CHAIRMAN (in Cantonese): Secretary for Development, you may move your amendments.

SECRETARY FOR DEVELOPMENT (in Cantonese): Chairman, I move my amendments to amend clauses 1, 6 to 10, 12 and 14, as set out in the Appendix to the Script. Before I proceed to introduce the amendments, please allow me to once again thank Members for their views on and support for the Waterworks (Amendment) Bill 2017 ("the Bill").

During the deliberations of the Bill, members of the Bills Committee on the Waterworks (Amendment) Bill 2017 ("the Bills Committee") and the industry were relatively concerned about two issues, i.e. the responsibilities of plumbing workers in carrying out plumbing works and the time limit within which the Water Authority may institute prosecution against the non-compliances of plumbing works. With the collaborated effort of the members, the industry and the Government, we are pleased that an option acceptable to all is ultimately found.

As regards the responsibilities of plumbing workers, we originally proposed adding a defence provision in the Bill, so that plumbing workers might defend themselves if the plumbing works they engaged in were found to contravene the Waterworks Ordinance ("the Ordinance"). Having considered the views of members and the plumbing industry, including factors such as the skill and knowledge level of plumber workers in general, we now propose that the defence be amended to the effect that plumbing workers will only be liable if they know that carrying out the plumbing works concerned will contravene the legal requirements. We consider that this amendment has already struck a proper balance amongst the level of involvement of plumbing workers, the legal liabilities to be borne by them and the deterrent effect of the law. Therefore, we propose to amend clause 6 of the Bill.

Concerning the time limit for prosecution by the Water Authority, we agreed, after seriously considering the views of all sides, to set an ultimate deadline for the Water Authority to prosecute against the non-compliances in plumbing works. We endeavour to strike a proper balance amongst the effectiveness of enforcement, the legal liabilities to be borne by relevant persons

and the deterrent effect of the law. Hence, we propose to amend clause 10 of the Bill.

The Bills Committee and Secretariat staff have also put forward various proposals to the Bill to clarify the policy intent. We agreed to adopt such relevant proposals, which include addressing the inconsistencies between the Bill and the Construction Workers Registration Ordinance regarding the exemption from complying with the requirement that plumbing works are to be carried out by designated persons. We thus propose to amend clauses 7 to 9, 12 and 14 of the Bill.

Furthermore, in order to enable the amended Ordinance to come into effect as soon as possible, we also propose that the Bill comes into operation upon gazettal. In this connection, we propose to amend clause 1 of the Bill.

Upon passage of the Bill, we will immediately commence publicity work, which include issuing practice guidelines to the trade, printing leaflets, and explaining clearly to the trade and relevant stakeholders the impacts of the amended Ordinance on them.

Chairman, I implore Members to support the amendments to be moved by me on behalf of the Government. I so submit. Thank you, Chairman.

Proposed amendments

Clause 1 (see Annex II)

Clause 6 (see Annex II)

Clause 7 (see Annex II)

Clause 8 (see Annex II)

Clause 9 (see Annex II)

Clause 10 (see Annex II)

Clause 12 (see Annex II)

Clause 14 (see Annex II)

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

(No Member indicated a wish to speak)

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

(Members raised their hands)

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

(No hands raised)

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

CLERK (in Cantonese): Clauses 1, 6 to 10, 12 and 14 as amended.

CHAIRMAN (in Cantonese): I now put the question to you and that is: That clauses 1, 6 to 10, 12 and 14 as amended stand part of the Bill. Will those in favour please raise their hands?

(Members raised their hands)

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

(No hands raised)

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

CHAIRMAN (in Cantonese): All the proceedings on the Waterworks (Amendment) Bill 2017 have been concluded in committee of the whole Council. Council now resumes.

Council then resumed.

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I now report to the Council: That the

Waterworks (Amendment) Bill 2017

has been passed by committee of the whole Council with amendments. I move the motion that "This Council adopts the report".

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the motion moved by the Secretary for Development be passed.

In accordance with Rule 59(2) of the Rules of Procedure, the motion shall be voted on forthwith without amendment or debate.

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

(Members raised their hands)

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

(No hands raised)

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

Third Reading of Government Bill

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

WATERWORKS (AMENDMENT) BILL 2017

SECRETARY FOR DEVELOPMENT (in Cantonese): President, I move that the

Waterworks (Amendment) Bill 2017

be read the Third time and do pass.

PRESIDENT (in Cantonese): I now propose the question to you and that is: That the Waterworks (Amendment) Bill 2017 be read the Third time and do pass.

Does any Member wish to speak? Ir Dr LO Wai-kwok, please speak.

IR DR LO WAI-KWOK (in Cantonese): President, I speak to support the Third Reading of the Waterworks (Amendment) Bill 2017 ("the Bill").

President, in my capacity as Chairman of the Bills Committee on the Waterworks (Amendment) Bill 2017 ("the Bills Committee"), I have earlier submitted the report of the Bills Committee to this Council and report on the major areas of work of the Bills Committee. I have also given my personal views on the Bill.

Here, I would like to express my special thanks to the relevant officials of the Development Bureau and the Water Supplies Department. Throughout the deliberations of the Bill, they have listened very attentively and modestly to the views of members of the Bills Committee, as well as the constructive suggestions from deputations and individuals who came to the Legislative Council to express their opinions. Actually, the views of various sectors have already been taken on board in some of the amendments that we passed previously, and some concerns raised by the industry and members of the Bills Committee have been

resolved. In this connection, I think I should express in this Chamber my appreciation of the positive attitude of the officials concerned.

The Bill should be passed after the Third Reading as the amendments can practically address the inadequacies and irrationalities in the Waterworks Ordinance. Under the existing Waterworks Ordinance, plumbing installations shall only be carried out by licensed plumbers. This is a loophole in the legislation. The current legislative amendment can plug this loophole, such that licensed plumbers and technical workers in the industry, as well as workers involved in relevant waterworks can be subject to a relatively clear legislation, and the level of the industry can be upgraded continuously. Therefore, it can be said that the current legislative amendment is timely and necessary.

President, I so submit.

MR SHIU KA-FAI (in Cantonese): President, I have attended every meeting of the Bills Committee on the Waterworks (Amendment) Bill 2017 ("the Bills Committee") during the deliberation of the Waterworks (Amendment) Bill 2017 ("the Bill"). I concur with Chairman of the Bills Committee Ir Dr LO Wai-kwok that officials of the Development Bureau and Water Supplies Department ("WSD") have listened attentively to the views of various members of the Bills Committee, as well as the concerns voiced by members of the industry at the public hearing. I know that the authorities have proposed various amendments in the course of deliberation, and the Hong Kong Plumbing and Sanitary Ware Trade Association Limited that I represent has also raised many different opinions to WSD. Members of the industry were particularly concerned about the time limit for them to be held liable in case problems were found. According to the initial proposal of the Government, the time limit was indefinite. However, having considered the views of the Bills Committee, the authorities have shortened the time limit concerned to six years. All parties agreed to this.

Overall speaking, I support the Bill because the authorities have already listened to the many voices of the industry and society. Nevertheless, I would like to say a few more words. President, the major reason leading to the introduction of the Bill is the lead-in-water incident. The incident has impelled the Development Bureau and WSD to impose more stringent supervision on plumbing works. I trust this is conducive to safeguarding the people of Hong

Kong. However, it is also important to strike a balance between public safety and business operation of the industry. At the meetings of the Bills Committee, Dr Helena WONG—she is now present—has also spent plenty of time scrutinizing the Bill with other members. In my opinion, it is most important to protect the people of Hong Kong while not making the industry difficult to run their business.

All in all, I will still support the Bill. Originally, I intended to speak a little more; but as Dr Helena WONG is present, I think she will probably speak at length later. In the lead-in-water incident, I just want to reiterate that the problem did not lie with the construction materials; instead, the problem was caused by someone who had mistakenly used leaded materials. General speaking, the construction materials used in the past by the industry in Hong Kong were all safe. In this regard, President, I declare interest that I am engaged in the construction material business.

I so submit. Thank you.

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

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, I now put the question to you as stated. Will those in favour please raise their hands ...

(Dr Helena WONG indicated her wish to speak)

PRESIDENT (in Cantonese): Dr Helena WONG, please speak.

DR HELENA WONG (in Cantonese): President, I would like to give a brief response only. The Waterworks (Amendment) Bill 2017 ("the Bill") has proposed some relaxations, under which the workers concerned have to be held criminally liable for breach of water supply and water quality requirements for their works. According to the original amendment proposed by the Government on the time limit for prosecutions, no matter when a project had been carried out,

as soon as the authorities have discovered any non-compliance or problems with the works, or any non-compliance with the requirements in respect of the supply and quality of drinking water, prosecution may be brought within a period of six months from the date on which the offence is discovered by, or comes to the notice of, the authorities. I strongly support the Government's original proposal ...

PRESIDENT (in Cantonese): Dr Helena WONG, we are now debating on the Third Reading of the Bill. You should speak on whether you support the Third Reading. What you said just now should have been stated during the deliberation of the committee of the whole Council. Please speak on the question under the Third Reading debate now.

DR HELENA WONG (in Cantonese): President, I do not think I have digressed because the Third Reading debate actually covers the Government's amendments ...

PRESIDENT (in Cantonese): I understand, but you should have stated these points during the deliberation in committee of the whole Council. The question under the current debate is whether this Council should support the Third Reading of the Bill. Members should express their views on this question, rather than speaking on the details of the Bill.

DR HELENA WONG (in Cantonese): Okay. Although you interrupted me just now, I will still continue to speak. What I said just now was that during the deliberation of the Bill, some Members have expressed concern over the time limit for prosecuting the workers concerned. We also understand their concern. In view of this, the Government has subsequently proposed an amendment stipulating that prosecutions may still be instituted within six years after the completion of water supply projects approved by the Water Supplies Department ("WSD") should the authorities discover any problems. However, no prosecution may be instituted after this time limit. I consider this amendment undesirable. The original proposal would be better. However, I am still willing to make compromise by accepting the time limit for prosecution to be within six years after the completion of works.

Even if the Bill is passed, it will not have any retrospective effect on previously completed works. The Bill, after being read the Third time today, will only be applied to regulate future works. Hence, if we want to track down the responsible parties for the lead-in-water incident that occurred in 11 public housing estates 12 years ago, we cannot invoke the Bill. Dr Priscilla LEUNG requested the incumbent Secretary for Development to offer compensation just now. I do not know if he can do so. I believe he should fail to do so.

Looking into the future, we hope that WSD and the Development Bureau ("the Bureau") can properly perform their gatekeeping role in ensuring the safety of water quality by strictly enforcing water testing procedures in the approval of the projects concerned. Under the current procedures, it is necessary to carry out interim and final testing of water quality. I have noticed that the authorities have entrusted professionals other than licensed plumbers with interim water testing in some cases. I have heard that this arrangement has caused controversy in the industry. Members of the industry have questioned why lay professionals who are high diploma holders with no experience in plumbing works could conduct interim testing on waterworks. There are divergent views in the industry over this arrangement. Some members of the industry have maintained that problems might arise when waterworks had been approved by people who studied electrical works or who had been working in the civil engineering sector. On the enforcement front, I hope that WSD and the Bureau will carefully consider the actual operations before finally approving projects in order to give full play to their gatekeeping role.

Whether it be pipe replacement or other new projects of housing estates affected by the lead-in-water incident, the Democratic Party has all along urged the authorities to strictly oversee the final stages of the works. The authorities should take samples of water which had been stagnant for at least six hours ("6HS water"). However, it is the current practice of the Government to take 6HS water samples from new estates or completed but not yet occupied buildings only. On the other hand, the authorities have been unwilling to take 6HS water samples from occupied housing estates, such as those affected by the lead-in-water incident, in cases of pipe replacement or building maintenance works. In my opinion, the Government must take samples of stagnant water in order to ensure that pipes, solders and flux have not contaminated drinking water.

The Democracy Party certainly supports the passage of the Third Reading of the Bill, but we still expect a lot of work to be done in relation to many

operational technicalities throughout the various work procedures and approval process. We strongly hope that the Government will honour its pledges by further extending the scope of its regulation to include other stakeholders in waterworks, including developers, contractors, suppliers of materials and other relevant professionals like Building Services Engineers as I have mentioned earlier. In addition, the authorities must also effectively regulate the import, wholesale and retail of water pipe fittings and copper pipes and set up a tracking mechanism to ensure that all fittings available on the local market comply with the requirements. If a renovation worker or a member of the public wants to carry out maintenance works, they will buy products from the market. All products available on the market must fully comply with the requirements set out in the Waterworks Ordinance. Otherwise, their import should not be allowed. If the Government can properly play its gatekeeping role on import, and set up a wholesale and retail tracking system, fewer members of the public will end up buying water pipes of unknown brands and non-compliant, substandard fittings, which will help reduce the pollution of drinking water.

I believe that members of the industry have already stepped up vigilance after the lead-in-water incident. I also agree that WSD and the Bureau have launched various works which will conceivably continue to proceed. The Democratic Party hopes that Hong Kong will put in place a set of sound legislation on drinking water safety. The Government has advised that it would neither oppose nor rule out the possibility of formulating a set of drinking water safety legislation. However, such statement is too passive and not aggressive enough. Instead of saying that it would not rule out the possibility, it is more advisable for the Government to state firmly its intention to formulate a set of comprehensive legislation on drinking water safety in order to ensure the safety of drinking water in Hong Kong. Based on this legislation, a good regulatory framework should be set up for the regulation of drinking water and water quality.

We support the passage of the Bill, the amendments under which will bring about many benefits. However, it is not sufficient simply to implement the suggestions set out in the Bill. As I said in my speech just now, a number of Members, irrespective of their political parties and factions, have expressed grave concern over the safety of drinking water. We might have overlooked this aspect in the past. WSD has all along been responsible for the work relating to

water supply. The authorities have been focusing its attention on water supply works. I agree that they have made considerable efforts in this regard.

However, apart from water supply, we are also particularly concerned about water quality in our discussion of the Bill. Drinking water safety has been a cause for concern. In some cases being followed up by Mr SHIU Ka-chun, some children have suffered permanent bodily harm after drinking water with excess lead, copper or poisonous heavy metals. To prevent the recurrence of similar incidents in Hong Kong, we call for legislating for safety of drinking water to comprehensively regulate all stakeholders throughout the process. We are now working towards this objective. We hope that the Government will pledge to continue its commitment to undertake the relevant work to ensure that Hong Kong's water quality reaches the level required of a world-class city.

Yesterday I asked the Secretary about the water leakage issue, which requires a lot of work. Apart from that, the Secretary also has to deal with the water quality issue ...

PRESIDENT (in Cantonese): Dr Helena WONG, although you have strayed from the question under the Third Reading debate, I have tried to be as tolerant as possible. Please come back to the question under the Third Reading debate and refrain from discussing the water leakage issue again. Otherwise, I will ask you to stop speaking.

DR HELENA WONG (in Cantonese): President, I do not understand why you are so impatient. Pro-establishment Members have been filibustering for the whole day but you have not told them to stop.

(Some Members spoke loudly in their seats)

DR HELENA WONG (in Cantonese): When Dr CHIANG Lai-wan was talking about the drinking water issue just now, she has digressed to talk about sewers. You had not even asked her to stop. I absolutely have not strayed from the question.

PRESIDENT (in Cantonese): Dr Helena WONG, if you continue to digress, I will ask you to stop speaking. Please come back to the question under this debate.

DR HELENA WONG (in Cantonese): President, I do not agree that I have digressed. Anyway, I will now continue my speech on matters relating to drinking water safety. The Secretary for Development is seldom present to listen to my speech on drinking water safety. In fact, even the Director of Water Supplies has rarely shown up recently ...

PRESIDENT (in Cantonese): Dr Helena WONG, the question under the current debate is whether this Council should support the Third Reading of the Bill. If you do not focus your speech on this question, I will ask you to stop speaking.

DR HELENA WONG (in Cantonese): President, I have focused my speech on the question. Perhaps you are not very familiar with matters relating to drinking water safety. Let me return to the Bill. I have just said that we cannot solely rely on the Bill to resolve the problems with drinking water safety. The Report of the Commission of Inquiry into Excess Lead Found in Drinking Water ("Report of the Commission of Inquiry") published in 2016 has put forward a number of recommendations. The Government has so far failed to implement some of the recommendations, or it has not done a good job in implementing these recommendations. Those recommendations include: devising an appropriate sampling protocol and collecting samples of stagnant water for testing. As I said just now, the authorities have been collecting samples of stagnant water only in new buildings. However, no samples of stagnant water have been collected in respect of other maintenance or pipe replacement works in housing estates affected by the lead-in-water incident. I hereby lodge a clear protest.

The Report of the Commission of Inquiry has made another vital recommendation. It has suggested that the Government set up an independent body to monitor water quality. This body will comprehensively monitor WSD's performance and the water quality of Hong Kong, and will be empowered to conduct independent inspections and auditing when necessary. However, under the current practice of the Bureau, WSD is responsible for water supply. If WSD is at the same time responsible for water quality ...

PRESIDENT (in Cantonese): Dr Helena WONG, please stop speaking. Does any other Member wish to speak?

DR HELENA WONG (in Cantonese): President, why do I have to stop speaking? My speaking time is not up yet.

PRESIDENT (in Cantonese): Dr WONG, despite my repeated warnings, you have still strayed from the question. Therefore, I have called on you to stop speaking. Does any other Member wish to speak?

(No Member indicated a wish to speak)

PRESIDENT (in Cantonese): If not, 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)

Mr Charles Peter MOK rose to claim a division.

PRESIDENT (in Cantonese): Mr Charles Peter MOK has claimed a division. The division bell will ring for five minutes.

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

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

Mr LEUNG Yiu-chung, Mr Tommy CHEUNG, Prof Joseph LEE, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr Michael TIEN, Mr YIU Si-wing, Mr MA Fung-kwok, Mr Charles Peter MOK, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Mr Kenneth LEUNG, Ms Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Helena WONG, Dr Elizabeth QUAT, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr Alvin YEUNG, Mr Andrew WAN, Mr HO Kai-ming, Mr LAM Cheuk-ting, Mr Holden CHOW, Mr SHIU Ka-fai, Mr SHIU Ka-chun, Ms YUNG Hoi-yan, Mr CHAN Chun-ying, Ms Tanya CHAN, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU, Dr CHENG Chung-tai and Mr KWONG Chun-yu voted for the motion.

THE PRESIDENT, Mr Andrew LEUNG, did not cast any vote.

THE PRESIDENT announced that there were 40 Members present and 39 were in favour of the motion. Since the question was agreed by a majority of the Members present, he therefore declared that the motion was passed.

CLERK (in Cantonese): Waterworks (Amendment) Bill 2017.

MEMBERS' MOTIONS

PRESIDENT (in Cantonese): Members' motions. Motion to be moved by Mr Charles Peter MOK to summon the Secretary for Justice to attend before the Council on 28 February 2018 to testify and produce documents.

PRESIDENT (in Cantonese): Members who wish to speak on the motion will please press the "Request to speak" button.

I call upon Mr Charles Peter MOK to speak and move the motion.

Stand-over item: Member's motion under Article 73(5) and (10) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (since the meeting of 31 January 2018)

MOTION UNDER ARTICLE 73(5) AND (10) OF THE BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA

MR CHARLES PETER MOK (in Cantonese): President, I move that, pursuant to Article 73(5) and (10) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, this Council summons the Secretary for Justice to attend before the Council on 28 February 2018 to testify and to produce all relevant papers, books, records or documents regarding issues in relation to whether she is still fit for the position of Secretary for Justice, including the unauthorized building structures in her residence, the process of purchasing the property concerned, the company or companies under her name, the public works-related business of the company under her husband's name and whether she was involved in any concealment of facts regarding the aforesaid issues and in the process of integrity check, and all other related matters.

President, since assumption of office, Secretary for Justice Teresa CHENG has aroused incessant disputes. Being the Secretary for Justice, she should be the most law-abiding person, upholding Hong Kong's rule of law most impartially. Yet, everything she did has dealt a direct blow to Hong Kong's judicial spirit and the core values of the public. Is a person who has deliberately broken the law still fit for the position of Secretary for Justice? Is a person who has not only deliberately broken the law, but also tried to conceal her illegal conduct, still fit for the position of Secretary for Justice to enforce the law and safeguard the rule of law on behalf of the Special Administrative Region? Should we have higher expectations of her conduct than that of other public officers? Society seems to be increasingly unfair. People with money and power can seemingly refuse to abide by the law, yet we are asked to be tolerant. Then, who in the community will be tolerant of people like CHOW Ting and others who have been unreasonably disqualified? Who will take into consideration the right of numerous people who want to vote for those candidates?

The Secretary for Justice said that she could not accept herself as a person without integrity. Then, I would like to invite her to attend before the Council

as soon as possible to come clean with us. Why is she hiding those facts? The Secretary for Justice has been beating around the bush and acting like a "human recorder". Is that what a person with integrity should do? We believe that the Secretary for Justice is competent, but why does she not face up to these questions?

At the special meeting of the Panel on Administration of Justice and Legal Services on 29 January, we put many questions to the Secretary for Justice: did she give an account about the unauthorized building works ("UBWs") in her residence during the integrity check, she did not answer; did the mortgage document indicate that there were UBWs in the property, she did not answer; when did she first find out there were UBWs in her property in Tuen Mun, she did not answer. Members should pass this summoning motion so that we can request the Secretary for Justice to come to the Legislative Council to answer those questions. As Legislative Council Members, we not only have the responsibility to monitor the Government, but also have to, through this motion, state clearly that Hong Kong people cannot tolerate the Government to harbour people with money and power, but suppress the ordinary people.

I also hope members of the public will understand that we are forced to take this step today. We have tried to ask the Secretary for Justice to attend the meeting of the House Committee to give an explanation, but this proposal was rejected by the pro-establishment camp. Although the Secretary for Justice attended the meeting of the Panel on Administration of Justice and Legal Services, she neither provided any information nor answered any of our questions. Outside the legislature, she released bits and pieces of information about the various problems of her properties, just like "squeezing toothpaste out of a tube", and she issued press releases late at night. Moreover, the Secretary for Justice would rather attend a radio programme than attend before the Legislative Council to give us an explanation. Was it an honest and sincere way to handle the matter?

President, I have to point out here many doubts relating to the UBWs incident. First, did the Secretary for Justice deliberately break the law? The Secretary for Justice, being a Senior Counsel and civil engineer, and having written the book *Construction Law and Practice in Hong Kong* (a copy is also available in the library of the Legislative Council), expounding on construction law and with some chapters explaining in detail the legal problems involving UBWs cases, obviously has thorough understanding of the Building Ordinance

and the legal issues concerning UBWs. Hence, our question is: Is the Secretary always aware of the UBWs in her property but has not taken any action?

Second, has the Secretary for Justice lied? The Secretary for Justice insisted that House 4, Villa de Mer in Tuen Mun was at the present state when she bought it. But after revealing the satellite images of Villa de Mer in the past decade, the media found that after House 4 was bought by the Secretary for Justice in 2008, there were signs of building works being conducted, and the suspected glass house on the roof was constructed after 2008. These facts were different from her claim that no structural alteration had ever been carried out. And after House 3 was bought by Mr Otto POON, husband of the Secretary for Justice, in end 2012, it was altered in the same way as House 4, having a glass house built on the roof.

When the Secretary for Justice gave an account of her UBWs scandal on 6 January and the second time on 10 January, she still claimed that after she bought the property in October 2008, the property remained as it was until today and no structural alteration had been carried out afterwards. At that time she still said that the glass house on the roof and the basement had existed before she bought the house. But later she said the door connecting House 4 and House 3 of her husband Otto POON was added at a later time. According to her, the works were not carried out by her but she was of course aware of them. After hearing such untruthful accounts, we got more questions than answers.

Third, did she deliberately conceal the existence of UBWs when signing the mortgage document? It was reported that the Secretary for Justice bought House 4 in the name of Sparkle Star Development at the price of \$26 million in 2008. On 23 October 2008 she signed the mortgage document with Standard Chartered Hong Kong in her capacity as the responsible person of the company. The document clearly stated that House 4 comprised a ground floor, a first floor, a second floor and a roof. It did not mention a basement. Attached to the document was the contract plan of the house when the first-hand buyer bought it in 1993, which showed a ground floor, a first floor, a second floor and a roof, but no basement. The deed of assignment and mortgage document are both legal documents. Leaving aside the fact that the Secretary for Justice is a member of the legal profession who should not have omitted such an important detail, she could not say that she did not know there was a basement when she bought the house. It does not require professional knowledge to tell the number of floors in a house. One can get the answer by just going inside the house and take a look.

If there is a 500 sq ft unauthorized basement in a property, which is as big as many people's home, how can any ordinary person miss it, let alone a professional?

If the Secretary for Justice deliberately concealed the unauthorized basement when signing the mortgage document, she was alleged of committing a crime "by any deception ... dishonestly obtains for himself ... pecuniary advantage" under the Theft Ordinance, which is, securing a mortgage from the bank by fraud.

Fourth, during the integrity check, did the Secretary for Justice come clean about the UBWs?

Many officials have been involved in scandals concerning UBWs over the years. In 2012, Henry TANG, the then Chief Secretary for Administration who ran for the Chief Executive election and LEUNG Chun-ying, who was subsequently elected the Chief Executive were both uncovered to have major UBWs in their houses. Henry TANG's wife was even found guilty of having UBWs. Since then, a number of accountability officials were also revealed to have UBWs in their residence. Hence, is it possible that during the integrity checks of today, no questions would be asked about UBWs?

It is very important for us to find out whether the Secretary for Justice had come clean about the UBWs in her property during the integrity check. On that score, I asked an oral question on 24 January. Patrick NIP, the Secretary for Constitutional and Mainland Affairs who answered my question, told us that everything had to be kept secret. I almost thought that our Government was a secret Government. When a Member wishes to find out if there are problems with the integrity checking system, how can the Secretary evade answering the question on the pretext that everything has to be kept secret? It made us suspect whether there were loopholes in the integrity checking system; whether the civil servant in charge was derelict of duty or he dared not query the integrity of a senior official, and whether the Chief Executive was in the know. Has anyone purposely concealed the information from the public?

We hope the pro-establishment camp will understand that this motion only focuses on the system, not individuals. Therefore, I hope pro-establishment Members will tell us whether they agree that there are problems with the integrity checking system. We focus on finding facts but not finding faults with

individuals. They cannot oppose this motion just because it is moved by the pro-democracy camp.

President, there is another very important question. Given that Mr Otto POON has undertaken many government projects, is there a conflict of interest?

According to the information provided by the Government Logistics Department, in the past five years, the Government has at least awarded 24 contracts to Mr POON at a cost of over \$800 million in total. Mr Otto POON, husband of the Secretary for Justice, is the founder and incumbent Chairman of ATAL Engineering Group. On the Belt and Road web page of the Hong Kong Trade Development Council, ATAL Technologies Ltd, a member of the ATAL Engineering Group, is listed as one of the service providers. From the web page, we learn that the contact person of the company is Ms Karen POON, Chief Executive, Corporate Strategy & IT Business of the company, and Ms POON is the eldest daughter of Mr Otto POON.

The Government awards works projects worth tens of billions of dollars each year. All these "white elephant" projects have wasted a huge amount of people's hard-earned money, which is a fact that we can hardly accept. If such works projects also involved private interests, what will the public think? Again, what will the public think about justice and rule of law in Hong Kong? Besides the general public, what will the engineering sector think? If Mr Frank CHAN, the then Director of Electrical and Mechanical Services, believed that it was alright to accept Mr POON's invitation to have dinner at his home, would it mean that any owners of engineering company could invite him for dinner? What would the sector think? Would it have a feeling of unfairness? And would he think that he had to avoid arousing suspicion? Everyone has an answer in mind.

President, it has been reported by the media that a certain company under Mr Otto POON is involved with the corruption case of AO Man-long, former Secretary for Transport and Public Works of Macao. I will spare the details here. The report clearly hinted that the company or even Mr POON himself might be involved in the case. As many democratic colleagues have said, no matter how many times the Secretary for Justice has apologized, she is already a Secretary for Justice who has deliberately broken the law. Do you think it is appropriate for her to continue serving as the Secretary for Justice of Hong Kong?

President, normally we would call upon the pro-establishment colleagues to support our motion, but everyone knows that the pro-establishment camp will, as always, spare no effort to shield the Government and will not let this motion be passed in order to keep impeding the democrats' efforts to monitor the Government, as well as to stop Hong Kong people from seeking justice and finding out the truth about this incident. A few weeks ago, certain pro-establishment Members seemed to be very bold and daring, but recently they have started to keep their mouth shut about the UBWs incident. I do not expect them to support this motion, but I have to tell the Chief Executive and the Government in my speech that we will not tolerate people with money and power not complying with the law, and we will not give up any chance to pursue justice and the truth.

Given the pro-establishment camp's support for the Government, this motion will very likely be negated. However, I will join hands with other democratic colleagues to continue pressing the Secretary for Justice to give an account, and we will not allow the UBWs incident to die down. I have a feeling that the Government is testing the memory of Members and the public; it adopts a stalling tactic in the hope that the incident will fade away from our memory and the matter will ultimately be left unsettled. Nevertheless, that will only make us even more suspicious that the facts have been concealed, giving rise to further queries about the credibility and governing ability of the SAR Government. Hence, I hope (*The buzzer sounded*) ...

PRESIDENT (in Cantonese): Mr Charles Peter MOK, please stop speaking.

Mr Charles Peter MOK moved the following motion:

"That, pursuant to Article 73(5) and (10) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, this Council summons the Secretary for Justice to attend before the Council on 28 February 2018 to testify and to produce all relevant papers, books, records or documents regarding issues in relation to whether she is still fit for the position of Secretary for Justice, including the unauthorized building structures in her residence, the process of purchasing the property concerned, the company or companies under her name, the public works-related business of the company under her husband's name and whether she was involved in any concealment of facts regarding the

aforesaid issues and in the process of integrity check, and all other related matters."

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

CHIEF SECRETARY FOR ADMINISTRATION (in Cantonese): President, pursuant to Article 73(5) and (10) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, Mr Charles Peter MOK has moved to summon the Secretary for Justice to attend before the Council on 28 February 2018 to testify and to produce all relevant papers, books, records or documents regarding issues in relation to whether she is still fit for the position of Secretary for Justice, including the unauthorized building structures in her residence, the process of purchasing the property concerned, the company or companies under her name, the public works-related business of the company under her spouse's name and whether she was involved in any concealment of facts regarding the aforesaid issues and in the process of integrity check, and all other related matters. On behalf of the Hong Kong Special Administrative Region Government, I implore Members to oppose the motion.

First, I wish to point out that the Legislative Council has the power to raise questions on the work of the Government under Article 73(5) of the Basic Law. As the above issues are irrelevant to the work of the Government, Article 73(5) of the Basic Law is not applicable.

Since 6 January this year, the issues in relation to the properties of Secretary for Justice Teresa CHENG ("Ms CHENG") and her spouse, as well as the business of the company under her spouse's name, have been reported by the press. In the past few weeks, Ms CHENG has repeatedly offered her explanation and sincere apology in public. For instance, she attended a special meeting last Monday, i.e. 29 January 2018, of the Panel on Administration of Justice and Legal Services to answer Members' questions. The key points have been summed up as follows:

- (a) Ms CHENG bought the property in Tuen Mun on an "as is" basis on the day of purchase, and she had not been acquainted with the former owner;

- (b) Ms CHENG reported to the Chief Executive immediately after learning about the incident on 5 January, and she has publicly undertaken to fully cooperate in the investigation of the Buildings Department and make rectifications expeditiously; she has also engaged an Authorized Person to inspect her properties and follow up on the matter; the approved rectification works which are being carried out progressively will be completed expeditiously;
- (c) Despite her failure to pay attention to the conditions of the properties at the time of purchase, Ms CHENG has reiterated time and again that she had no intention to use this as an excuse or a reason to exonerate herself. As the owner of the properties, she will take up the responsibility for failing to properly inspect and handle the problems in the past, and will make an all-out effort to rectify the problems expeditiously;
- (d) The other properties of Ms CHENG and the company or companies under her name had also been purchased on an "as is" basis; and she has already engaged an Authorized Person to conduct a comprehensive investigation; rectification works which are being carried out progressively will be completed expeditiously; and
- (e) To avoid any possible impression of conflict of interests, partiality and undue influence, Ms CHENG has respectively delegated the Law Officer (Civil Law) and Director of Public Prosecutions to handle all matters which may be related to civil and criminal prosecution in respect of her and her spouse's properties, and her spouse and her spouse's companies, including the provision of legal advice, or the consideration as to whether certain relevant decisions need to be made in future. Ms CHENG will not personally take part in the decision making on the above matters or any relevant legal proceedings.

President, on the morning of 5 January, in accordance with the appointment and removal by the Central Authorities, the Chief Executive announced the appointment of Ms Teresa CHENG as the Secretary for Justice by the Central Authorities with effect from 6 January. On the morning of 6 January, after the Chief Executive had administered her oath as required by law, she became the incumbent Secretary for Justice. We understand what the public nowadays are

expecting of senior government officials, particularly politically appointed officials. Nevertheless, I hereby also express my hope that people can assess Ms CHENG's performance in terms of her work in future.

President, we fully understand that there is indeed room for improvement in Ms CHENG's handling of the problems of her properties. Given that Ms CHENG has immediately reported to the Chief Executive and made arrangements to delegate her work as mentioned above, we do not see any evidence to suggest any conflict between these matters and Ms CHENG's duties as the Secretary for Justice.

With regard to the handling of unauthorized building works, the Buildings Department will continue to act in accordance with the law and treat everyone on an equal footing; and will take appropriate action in accordance with the Buildings Ordinance and current law enforcement policies. Ms CHENG has also fully cooperated with the work of the Buildings Department and will make rectifications expeditiously. For this reason, we do not see any practical needs to summon the Secretary for Justice to attend before the Council on 28 February 2018 to testify on questions as to whether she is still suitable to take up the position of the Secretary for Justice. On behalf of the Hong Kong Special Administrative Government, I implore Members to oppose the motion.

President, I will first listen to Members' views on the motion before I give any further response and my concluding speech. Thank you, President.

MR ALVIN YEUNG (in Cantonese): President, on behalf of the Civic Party, I speak in support of this motion of Mr Charles Peter MOK.

President, before I formally deliver my speech, allow me to give a simple response to the speech delivered by the Chief Secretary for Administration on behalf of the Government just now. The Chief Secretary said at the beginning of his speech that Article 73(5) of the Basic Law is not applicable to the motion moved by Mr Charles Peter MOK, but I would like to point out that we are now targeting at the integrity of Secretary for Justice Teresa CHENG ("Ms CHENG") and, to a broader extent, whether she is able to effectively discharge her duties as the Secretary for Justice. Exactly for this reason, we hope to win cross-party support to sort things out so as enable Ms CHENG to discharge her duties more smoothly.

President, over the past two weeks we have witnessed that royalist Members were also good at filibustering. In order to minimize the debating time for this motion, they actively spoke on virtually each and every bill or motion in the past two weeks, including the Protection of Endangered Species of Animals and Plants (Amendment) Bill 2017, the Employment (Amendment) (No. 2) Bill 2017, the proposed resolution under the Legal Aid Ordinance, the proposed resolution under the Pneumoconiosis and Mesothelioma (Compensation) Ordinance and the Dutiable Commodities (Amendment) Bill 2017. It is indeed a rarity that they actively speak on all bills or motions.

However, President, regardless of how earnestly they are defending their lord, unauthorized building works ("UBWs") are UBWs, facts are facts, and what is coming will ultimately come. President, next I will present the timeline of the UBWs concerning the Secretary for Justice. My speech will cover many facts that we are already very familiar with, but I hope that the President will allow me to complete this step, which is crucial for my ensuing discourse.

Ms CHENG was appointed on 5 January this year. On the same day, the media reported that her villa in Tuen Mun was found to have suspected UBWs, including a basement and a rooftop structure. On the next day, i.e. 6 January, Ms CHENG held a simple press conference, saying that the UBWs were not erected by her as they already existed when she purchased her home. On 7 January, the media reported that, having detected obvious differences between the rooftop of the villa as shown in satellite images over the past 10 years, journalists suspected that Ms CHENG erected the UBWs after purchasing the villa. On 12 January, the media reported that when Ms CHENG purchased the villa in 2008, the mortgage agreement entered into with the bank had no mention of a basement in the villa, and the conveyance on sale also contained an "as is" clause, but the Secretary for Justice nevertheless signed the agreement.

In the late night of 21 January, the Secretary for Justice issued a press release disclosing that there were three UBWs at her property in the Southern District. On the next day, the media uncovered that the sale and purchase agreement in respect of the property also contained an "as is" clause, meaning that the buyer clearly knew that there were UBWs in the property. The person who signed the agreement was Ms CHENG's husband, Mr Otto POON, who is a qualified engineer. On 24 January, the photos of two basements in the couple's homes were exposed by the media, which revealed that the basements have a combined area of over 1 000 sq ft, with facilities such as a Japanese-style tatami

room, a wine cellar, a home cinema room and a band room. On 26 January, the Buildings Department issued a press release saying that all properties owned by the Secretary for Justice in Hong Kong had varied level of UBWs.

President, in the timeline that I have taken pains to read out, the words that most frequently appeared were "the media reported", apart from "UBWs". It has been more than one month since the occurrence of the incident, and society could only get to know the details primarily through the media making requests for public information and conducting investigations. Press freedom is an important pillar vital to the success of Hong Kong, and it is also an important core value upheld by Hong Kong people. I certainly would like to, on behalf of the Civic Party, extend my gratitude to journalists who had done their utmost to uncover the truths. If they had not uncovered the truths, we would not have possibly known, even if we met face to face with Ms CHENG in the Chamber, that the defender of the rule of law in Hong Kong was very likely involved in a series of incidents in which she had knowingly violated the law.

President, this is where the problem lies. As for a defender of the rule of law in Hong Kong, one of the highest-level politically-appointed officials of Hong Kong, we can surprisingly only get to know the problems with her UBWs and integrity by relying on media investigations. It is true that Ms CHENG held a press conference to explain the incident, and when attending a meeting of the Panel on Administration of Justice and Legal Services on 29 January, she sought to elaborate on the UBWs issue while explaining the policy initiatives of the Department of Justice. However, Ms CHENG has never formally disclosed all the documents involved, including building plans, conveyances on sale and mortgage agreements disclosed by the media as well as documents the media failed to find. President, this is a key point of this motion. Not only do we hope to summon Ms CHENG to the Legislative Council to take questions on her UBWs, but we also request her to bring all the original documents concerned to the platform of the Legislative Council, so as to convince all Hong Kong people in public that despite her UBWs, despite her violation of laws knowingly, she is still a competent Secretary for Justice.

For this reason, Mr Charles Peter MOK moved this motion not for the purpose of embarrassing Ms CHENG or putting her on public trial. Rather, he seeks to set up a platform that enables Ms CHENG to place all testimonies and evidence under the sun, so that she will be able to respond to all the queries one by one, lest she should bear such a notorious name as "Secretary for Justice

UBWs" during her tenure in the coming years. I fail to see why royalist Members should not support this motion with such a good intention.

In addition, President, apart from UBWs, the alleged conflict of interest on the part of Ms CHENG's husband, Mr Otto POON, is also a concern voiced in society. According to media reports, Mr POON maintains friendly relations with the incumbent Secretary for Transport and Housing, Frank CHAN. Not only did Secretary Frank CHAN visit Mr POON at his Tuen Mun villa, but he was also the groom's witness at the wedding ceremony of Mr POON and Ms CHENG. Coincidentally, during the period when Secretary Frank CHAN served as the Director of Electrical and Mechanical Services, ATAL Engineering Group under Mr POON's name won as many as 24 government contracts, and the total project costs involved exceeded \$800 million. President, I am not speculating on whether any hidden agenda was involved, neither will I speculate on whether ATAL Engineering Group will fare even better following Ms CHENG's assumption of office. However, simply judging from the relations between Mr POON and Secretary Frank CHAN, society can reasonably suspect the entanglement of interests on their part. When the Government can use "political affiliation" to speculate on a person's line of thinking and strip her of the right to stand for election, why can't society use "entanglement of interests" to suspect senior officials and their family members? President, I wish I were an alarmist, but as a matter of fact, the problems are indeed going on, making Hong Kong people worried to a reasonable extent.

Apart from being concerned about the entanglement of interests between Mr POON and Secretary Frank CHAN, we are also concerned about whether Ms CHENG disclosed the entanglement of interests on the part of her spouse during the integrity check. Indeed, President, regarding the UBWs incident concerning Ms CHENG, another concern of society is the integrity checking system for government officials. I certainly understand that the Government may reply perfunctorily by saying that the details of integrity check should not be disclosed, but following the current incident concerning Ms CHENG, the fact has been laid bare that the integrity checking system has totally crumbled. Even if it has not crumbled, President, the system is extremely faulty. When integrity check was conducted, was a question put to the person concerned on the existence of UBWs? Did the person concerned conceal any facts in reply? I believe not only the Legislative Council but also various social sectors are all concerned about these questions and want to know the answers.

President, if the Government continues to act like ostrich and refuses to reply to these questions, in the long run, the Hong Kong society will no longer believe in the so-called integrity checking system. In that case, not only Ms CHENG but also all future politically-appointed officials will hardly be able to win the trust of Hong Kong people, even if they are clean, even if they are free from any UBWs or integrity problems. President, we hope the Government will make use of this opportunity to be frank with us and restore our confidence in the integrity checking system. As Chief Secretary Matthew CHEUNG now sitting in the Chamber is a senior civil servant, he certainly attaches a great deal of importance to the integrity checking system like we do. He likewise does not wish to see that in future, Hong Kong people will cast a doubtful eye on other senior government officials upon their assumption of office and no longer have any trust in this system.

President, before concluding my speech, I would like to take this opportunity to say that the UBWs case of Ms CHENG is different from that of a certain candidate now running for a by-election. A pro-establishment Member once said through the media that the case of that candidate, who tackled his UBWs only for the purpose of running for the by-election on 11 March, was more severe than the case of Ms CHENG, whose UBWs were disclosed only after her assumption of office. I must refute such kind of logic. As for a candidate who runs for an election without knowing whether he will succeed, and who started his electioneering campaign only after tackling his UBWs, why would his case be more severe than the case of a person who, upon assumption of office, disclosed information on her UBWs in a manner of "squeezing toothpaste out of a tube" only after the media had uncovered the incident? Furthermore, an encumbrance has been imposed on the property of the candidate due to his UBWs, and in 2011 he took the initiative to report five UBWs in his home to the Buildings Department.

President, UBWs are UBWs, and they are illegal; the approaches to tackling them tell the difference. Following the uncovering of the incident, Ms CHENG's handling has been disappointing on each and every occasion, giving people the impression that she does not have the sincerity to be upfront and honest, making people even suspect that she has so far concealed certain facts. Is this the truth? We hope to be fair by allowing Ms CHENG a fair opportunity to explain, and the proposal in this motion exactly serves as the best

and last opportunity for her to explain. For this reason, I hope that Members present in the legislature will, regardless of which political party they are from, vote in favour of this motion. I so submit.

MR SHIU KA-CHUN (in Cantonese): President, I am speaking in support of Mr Charles Peter MOK's motion to summon the Secretary for Justice to attend before the Council on 28 February 2018 to testify and to produce all relevant papers, books, records or documents regarding issues in relation to whether she is still fit for the position of Secretary for Justice, including the unauthorized building structures in her residence and the process of purchasing the property concerned, and whether she was involved in any concealment of facts in the process of integrity check.

The Hong Kong Institute of Asia-Pacific Studies of The Chinese University of Hong Kong interviewed 731 people aged 18 or over via telephone on the evenings from 19th to 24th of last month to conduct a survey on the popularity of the SAR Government. The findings of the survey showed that Secretary for Justice Teresa CHENG ("Ms CHENG"), who just took office earlier last month, scored 38.9 points, which was lower than the score of the other two Secretaries of Department. Chief Secretary for Administration Matthew CHEUNG scored an average of 52.6 points; even Financial Secretary Paul CHAN, who has been ridiculed for land hoarding and engaging in the business of operating subdivided units, scored 48.0 points, which is 9.1 points higher than Ms CHENG, who is supposedly having a honeymoon period.

What does this indicate? It indicates that Ms CHENG's competence and credibility in the eyes of the general public have certainly been adversely affected by the unauthorized building works ("UBWs") fiasco. Generally speaking, members of the public would allow newly appointed public officers to enjoy a honeymoon period. Even former Secretary for Education Eddie NG, whose performance was much worse, had a honeymoon period. Ms CHENG, however, has been dogged by controversies after taking office for less than one month. This is definitely not a pure political issue, nor is the pan-democracy camp targeting at her. This is an issue of which an account must be given to all taxpayers in Hong Kong.

I consider it necessary to summon Ms CHENG to attend before the Council to give a clear account of the controversies concerning UBWs and concealment of facts. If the Secretary for Justice did have UBWs and had concealed the facts, it may constitute criminal liability. How can this be acceptable for the Secretary for Justice? She must be held accountable. If the Secretary for Justice is a person of integrity and has a clear conscience, she should take this opportunity when members of the public have lost trust in her to do justice to herself by formally giving an account in the Chamber of the Legislative Council. Therefore, I hope that colleagues of the pro-establishment camp will not shield her indiscriminately. Please take a careful look at the popularity ratings mentioned by me earlier, members of the public have already turned their back on the Secretary for Justice. If Members continue to "tolerate" as what the Chief Executive did, they are actually "shielding" her. What will happen to the Secretary for Justice in future?

In the past month or so, the Secretary for Justice has become the laughing stock of radio programmes on current affairs. For example, when a programme host spoke on the news about a "careless crane lorry driver smashed into a bridge", he ridiculed the Secretary for Justice, saying that the driver might cite the Secretary for Justice's defence of being "too devoted to public service to neglect private affairs"; being too busy, he forgot to lower the crane, and hoped that the Government might "tolerate" him and did not claim compensation from him. "If it is the fact, then it is the fact." Teresa CHENG lacks the integrity, popularity and dignity to be the Secretary for Justice, and she will only become the laughing stock of the people. I am worried how Ms CHENG is going to perform her duties in the coming four years.

It is a pity that the driver was not the Secretary for Justice and had to bear criminal responsibility and pay compensation for the smashed bridge. The Secretary for Justice, on the other hand, stood firm and refused to admit any wrongdoing. If even colleagues of the pro-establishment camp have lost patience in Teresa CHENG's "firm stance of not admitting any wrongdoing", they should join us and vote in favour of this motion.

As a matter of fact, Ms CHENG has already set a very bad example for Hong Kong's officialdom. I suspect that Chief Executive Carrie LAM, who was said to "make a good start", might regret nominating Teresa CHENG and want to

say to her, "You have made me suffer". Certainly, I am not sure if Teresa CHENG may also want to say to the Chief Executive, "You have made me suffer". It is thus difficult to tell who has caused the suffering.

Up till now, the only contribution that the Secretary for Justice has made to the people of Hong Kong is that she has taught all public relations companies ("PR") in Hong Kong a very good lesson of what ought not to do. As Ms CHENG's UBWs fiasco is getting worse with the exposure of more scandals and "black materials", almost all local PR firms have used it as a case study. To put it simply, the Secretary for Justice has made all the mistakes that a PR officer could possibly make. Of course, this summoning motion does not intend to set up a platform for the Secretary for Justice to become a PR officer. I support the motion to uphold the dignity of the Executive Authorities of Hong Kong, so that the Government will learn a lesson and avoid making the same mistake.

In fact, the Chief Executive has been eager to cool down the fiasco by highlighting that Ms CHENG was "too devoted to public service to neglect private affairs". While empathizing with her, the Chief Executive has urged Members and the general public to be more understanding. Since Carrie LAM also thinks that the Secretary for Justice has erred in haste, why should she urge tolerance, but not let Teresa CHENG learn from mistakes? It should be noted that the UBWs fiasco has come to this pass not because Members, the general public or the media refused to forgive Ms CHENG, but because someone has been very calculating and refused to admit any wrongdoing to calm the storm. Worse still, that person has even tried to evade responsibility and muddle through time and again.

Such examples are simply too many to enumerate. Ms CHENG is not only a Senior Counsel, but also a qualified civil engineer. However, her defence is that she is not familiar with the term "authorized persons" in the building laws. In fact, the media has already revealed that she once co-authored a book with Gary SOO, a barrister and Chartered Engineer. The book, titled *Construction Law and Practice in Hong Kong*, explains in detail the role of the Buildings Department in building works and one of the chapters is devoted to citing a number of local cases to explain the meaning of UBWs. What is more, Ms CHENG was a speaker of a two-day seminar organized by the School of Law of the City University of Hong Kong, introducing the role of building

professionals and contract principles as well as issues relating to claims. Is she a professional in good days but a victim should something happen?

Ms CHENG has, both in her book and during the seminar, cited some cases to explain the term "UBWs", which covered issues such as the repair and maintenance responsibilities of owners and the compliance with the laws of Hong Kong. Simply put, Ms CHENG is an out-and-out "genuine expert of UBWs".

If the Secretary for Justice had been honest to the public at the outset and make a clean breast of the matter, the UBWs incident would not have escalated into such a big storm today. During the past period of time, whenever the media revealed something, the Secretary for Justice would subsequently respond in a manner of "squeezing toothpaste out of a tube". Apparently, she has deliberately concealed facts time and again, in the hope of getting away with it. If the Secretary for Justice is fully aware of her non-compliance, why didn't she come clean and reveal all the unauthorized incidents and negative information to the public at the earliest opportunity? It is obvious that the Secretary for Justice has been taking chances, thinking that the journalists might not be able to unearth all the facts. I therefore support the motion to put things right and look forward to finding out the truth.

If this summoning motion is vetoed, the Secretary for Justice will surely continue to take chances. As we can see, she often issued press releases late at night, thinking that she could thus evade questions from the media. Judging from this point alone, we can tell that she has not been open and above board. We can bear with the mistakes of the Secretary for Justice, but we cannot accept that she has repeatedly shirked her responsibilities on the excuse of being "busy".

Judging from the responses made by the Secretary for Justice, it seems that she has been acting shamelessly, hoping that Hong Kong people may forget about the fiasco or even abandon the idea of seeking further apology as well as disclosure of information and explanation. If this is the case, even if the Secretary for Justice can eventually secure her post, she will only end up being a "lame duck". How can such a Secretary for Justice expect us to put ourselves in her shoes and sympathize with her? Therefore, it is unavoidable to summon the Secretary for Justice to attend before and respond to this Council.

Chief Executive Carrie LAM claimed that the Secretary for Justice is her most important partner as well as her legal advisor. However, it was revealed on

the first day of appointment of Ms CHENG that there were UBWs in her residence. And yet, instead of making a clean breast of it, she tried to evade questions from journalists, resulting in a huge uproar. First of all, Members should understand that the presence of UBWs in private building implies that the owners concerned have breached the law by occupying space that does not belong to them. And, UBWs itself is prejudicial to the interest of the public as the illegal occupation of space is prohibited by law due to the possible environmental or safety effect, or has resulted in a loss of public money due to unpaid premium or rates to the Government.

The alleged UBWs in Teresa CHENG's house in Tai Lam, New Territories, include a basement and a rooftop glass house, each occupies a few hundred square feet. Given that she is both a qualified engineer and Senior Counsel, it would be unconvincing to say that she did not have the ability to identify UBWs or did not know that she could find someone to carry out inspection when she purchased the property. What is more, she has put the two professionals, namely engineer and barrister, in a very embarrassing situation. Even if Teresa CHENG liked that house very much and must buy it anyhow, there were four occasions when she could rectify her mistakes in the past period of time. The first time was in 2008, she could have demolished the relevant UBWs when she moved in, but she did nothing; the second time was in 2012 when the community at large expressed concern about UBWs of celebrities, she again did nothing; as for the third time, when she accepted the offer as the Secretary for Justice, she could have engaged an authorized person to demolish the relevant UBWs, but she again did nothing; the fourth time was when she received a notice from the Buildings Department after assuming office, but she still did nothing. We can thus draw a conclusion that Teresa CHENG's failure to abide by the law on these four occasions is not due to a lack of vigilance, but her weakness of being "greedy" and taking chances. People having this kind of mentality can be likened to someone driving late at night. He repeatedly jumps the red light, thinking that speeding photos will not be taken, and will vow to make corrections when being caught.

Given that the Secretary for Justice is charged with the important tasks of upholding the rule of law, it is not too much for members of the public to expect her to be law-abiding, honest and self-disciplined. If we allow someone with this character defect, trying to gain petty advantages when being unnoticed, to take up the post of Secretary for Justice, would this be a blow to the dignity of the lofty post? I am even of the view that not only should Teresa CHENG give a

public account, but also Chief Executive Carrie LAM. When Carrie LAM was the Secretary for Development, she had taken vigorous actions to demolish UBWs. Although the problem was ultimately left unsettled, which had become a blemish of Carrie LAM's governance, she should have a higher degree of alertness towards UBWs than other public officers. If Carrie LAM missed the issue on UBWs when she approved the integrity checking report of Teresa CHENG, it would be a dereliction of duty on the part of the Chief Executive. If Carrie LAM recommended Teresa CHENG as the Secretary for Justice even knowing that she has UBWs in her residence, it would be the Chief Executive's contempt of the post of Secretary for Justice. There is also another possibility, and that is, officials of the Central Government wanted Teresa CHENG to take up the post of Secretary for Justice, and thus Carrie LAM dared not raise questions. In that case, it would mean that Carrie LAM has abandoned her duties as the Chief Executive, which has further reinforced the need for her to give a thorough account to the people of Hong Kong.

Although Chief Executive Carrie LAM has "made a good start" and was able to tide over the crises of the co-location arrangement and the "disqualification" dispute, her popularity rating has dropped drastically as a result of Ms CHENG's UBWs fiasco. If it turns out that the alleged UBWs does exist, the entire Carrie's team will suffer.

Senior Counsel Lawrence LOK, who was elected a member of the Bar Council in the re-election of the Hong Bar Association, said in an interview that Teresa CHENG should prove how busy she was in a frank and open manner. For example, she should make public her itinerary, which might at least earn her some public understanding. Given that the Secretary for Justice has said time and again that she has been very busy, she should disclose her itinerary, so that we could find out on a certain day, the number of meetings she attended; the number of arbitration and mediation cases handled; the number of court cases dealt with, as well as the number of lectures given in Beijing and Hong Kong. We can then judge whether she or Members of the Legislative Council has a more hectic schedule? Did she have any reasonable evidence to prove that she, being very busy, forgot that there were UBWs at her home? Of course, busy is never an excuse for UBWs, but at least people would understand why she was so lazy and why she was unaware of the relevant UBWs, such that with public understanding, she can continue to work as Secretary for Justice. I therefore support that the Secretary for Justice should attend before the Council and answer questions in a frank and open manner.

Lastly, I would like to speak on behalf of the young generation who are eager to take part in politics and bring changes to society but has been disqualified. Let me cite the words of CHEN Wei-ting, a leader of the Sunflower Student Movement, to put a question to those Members who intend to veto this motion: "Why are you so lenient to the people in power, but so harsh to those without power who have been striving to state the truth despite being suppressed? What kind of society is this?" What kind of legislature is this? Carrie LAM often calls on Members to be tolerant, but if we continue to be tolerant, no one will enter the "hot kitchen" of this Government to serve members of the public. The heat does not come from the kitchen itself, but from the poor management of people overseeing it, who have turned the kitchen into a mess and driven up the heat. Summoning Ms CHENG to this Council and hold her accountable is indeed a step to bring order out of chaos with a view to preventing an outbreak of fire in the overheated kitchen.

President, I so submit.

MR CHAN CHI-CHUEN (in Cantonese): President, I am the first Member having a clear stance on this issue within the whole pro-democracy camp. My stance is very clear and can be simply and directly summarized in five words: "Teresa CHENG must step down". Had Teresa CHENG stepped down, it would not have been necessary for us to hold this debate today. It is best if she comes forward, bows and steps down now, so that we do not have to discuss this agenda item any more. But it is certain that she will not do so. That is why today we have no alternative but to support the motion moved by Mr Charles Peter MOK under Article 73 of the Basic Law to summon the Secretary for Justice to attend before the Council on 28 February to testify and produce documents.

Over the past month, Hong Kong people have been very miserable, and so has the Hong Kong Government. Chief Secretary Matthew CHEUNG is also very miserable, for he has to read out the script for Teresa CHENG and take the flak in this Chamber today. He has to toe the government line when he speaks, asking for our tolerance and understanding towards Teresa CHENG. However, tolerance and understanding are conditional. She ought to admit her mistakes and clearly account for all her wrongdoings, and then it is up to the public and this Council to decide how to show tolerance and understanding towards her. The Government should not ask all Hong Kong people to show tolerance and understanding towards her by turning a blind eye to what she did, pretending not

to know what they already know, and simply believing what she said without asking questions.

What is the current strategy adopted by Teresa CHENG? It is to pretend ignorance. If everyone sees that she pretends ignorance, then this is no longer a problem of unauthorized building works ("UBWs"). The presence of UBWs is not a very serious problem in itself. As many people say, all tycoons have UBWs in their luxury properties without exception. As long as the relevant buildings are not in immediate danger, the Buildings Department will not take action. I know that on the Peak, there is a garden which was originally a lumber room measuring 400 sq ft, and it has now been expanded without authorization to 5 000 sq ft. Some people once demanded that the owner of this garden should demolish it, but the owner refused. The members of the owners' corporation of the estate concerned, who are all famous people, then contacted me, and all of us went to the Buildings Department to lodge a complaint. The owner in question was very fierce, saying that if the whole estate was to be sold, his share of the proceeds from the sale should be calculated on the basis of 5 000 sq ft. Later, he even fenced off land belonging to the Lands Department. Eventually, the estate told the Lands Department that it would no longer rent that piece of land, and so the Lands Department requested the estate to return that piece of land first, but that piece of land was already fenced off by the owner in question.

What I am trying to say is that Teresa CHENG's problem is not purely a UBWs problem but an integrity problem. When everyone sees that she pretends ignorance, she has an integrity problem. Anyone can pretend ignorance, but the question is whether others believe them. Even if all Hong Kong people pretend ignorance, the one who is most untrustworthy is still Teresa CHENG because she is a Senior Counsel, a civil engineer and the author of *Construction Law and Practice in Hong Kong*. Suppose I said I did not know there were UBWs in my home, perhaps no one would believe me. Suppose the President and Carrie LAM said they did not know there were UBWs in their homes, I think more people would have sympathy for them than for Teresa CHENG. Furthermore, UBWs are found not only in one of her properties but in every property under her name. This is really an unpalatable fact.

What is most pathetic is that Teresa CHENG still pretends ignorance today, whereas the Chief Executive pretends to believe her—I should not say the Chief Executive pretends to believe her; I should say the Chief Executive has no option but to believe her to the utmost. Mr SHIU Ka-chun said just now that she had

had four chances to rectify her mistakes; I am not talking about whether she has rectified them, I am talking about whether she was in the know. Did she know there were UBWs in her residence when she moved into it in 2008? She said she did not know. Actually we should ask her if she knows her residence has a basement; I wonder if she dares to say she does not know. She can say that the basement was not furnished by her, she seldom used the basement and she was rarely in Hong Kong. It really feels as if we are watching a Hollywood haunted house movie like *The Conjuring*: the protagonist, who keeps running after hearing strange noises, kicks a hole in the planks with a bang, and it is only then that she realizes there is a basement, in which there are 10 dead bodies; or, the protagonist, who lives in a house in the United Kingdom—I have no idea whether there are laws regulating UBWs in the United Kingdom—does not know the house has a basement until her son goes missing. Teresa CHENG certainly does not dare to say that she does not know her residence has a basement, unless it is really a haunted house. What she has been saying is that she did not know the basement was an unauthorized structure.

Some housewives have said to me, "She can pretend that she did not know there were UBWs in her residence when she moved in, but in 2012, when the UBWs in Henry TANG's residence were uncovered with many Transformers-like cranes surrounding Henry TANG's residence and LEUNG Chun-ying's residence, all tycoons and owners of lands and properties in Hong Kong must have thought about whether there were UBWs in their homes." If Teresa CHENG comes to this Council, I will ask her if she thought about whether there were UBWs in her home when it was revealed that both Henry TANG and LEUNG Chun-ying had UBWs in their homes. She may answer that she was very busy and did not have time to think about it carefully. If I ask her whether she read the news reports on the UBWs saga involving LEUNG Chun-ying and Henry TANG, she may also say that she was very busy and did not read them. By doing so, she can achieve coherence in her story and keep up the pretence.

Why did she not rectify this problem immediately when it was revealed by the media upon her assumption of office? It was because she wanted to achieve coherence in her story. She said she did not know about it, and so she needed an authorized professional to tell her where the UBWs were. If she rectified the problem immediately back then, it would mean that she knew about the UBWs but deliberately chose to ignore them. Does anyone have the right to make such a choice and claim that they know nothing about all the dirty deeds involving them? Some people really think that "if one is ignorant, one is not guilty", or

rather, "if one is ignorant, one is not a liar". If she has committed an offence, the authorities can prosecute her. But she pretends ignorance, and this is infuriating.

There are many doubts about this case which have yet to be dispelled. If Teresa CHENG can attend before this Council to produce all relevant papers, books, records or documents, we can find out or Hong Kong people can judge whether she did not know there were UBWs in her residence.

First, I think the gravest doubt about Teresa CHENG's UBWs incident, which has caused a furore, is whether she, being a civil engineer and a barrister, really did not know that the 500 sq ft basement was an unauthorized structure. Has she never seen the basement? She may have used the basement every day. To be frank, nine times out of ten, the basements of luxury properties were built without authorization. Come to think of it, the land problem in Hong Kong can be easily solved, as each luxury property can provide additional space of a few hundred square feet if a few basements are dug under it. Since 2008, Teresa CHENG has lived in the relevant property for 3 000-odd days, paid 40 instalments of rates for it and lavishly decorated the basement, but she actually said that she did not know the basement was an unauthorized structure. I have made enquires with quite a number of architects and surveyors, including those in the "blue ribbon" and "yellow ribbon" camps; none of them believes Teresa CHENG. However, the Chief Executive argues that if it is the fact, then it is the fact. I really hope Teresa CHENG can come to this Council, so that we can ask her in detail how it was possible that she did not know the basement was an unauthorized structure. We will give her enough time to explain. I would like to understand how it was possible that she was ignorant of the fact. If she can prove that she was ignorant of the fact, then she was not lying, and the whole thing is purely a UBWs problem rather than an integrity problem.

I have just talked about the first doubt. On that score, I once asked Carrie LAM if she really believed Teresa CHENG that before she was told by others that there were UBWs in all the properties under her name in Repulse Bay, Fo Tan and Royal Ascot, she had had no knowledge of this. Carrie LAM answered that she believed Teresa CHENG. That is why I say Carrie LAM is very special, for not even an ordinary citizen believes Teresa CHENG. There had been so many chances for her to see the basement; had she not even taken a look at it? If she does not know what UBWs are, she should ask other people, but I do not believe she does not know what they are.

The second doubt is whether Teresa CHENG made false declarations about the 500 sq ft basement when she signed the mortgage and assignment documents. I have also asked Carrie LAM this question. The contents of those documents show that the signatory has thoroughly inspected the detached house and it has no basement. Those documents were signed by Teresa CHENG herself, and yet she now pretends that she did not see the relevant contents. She certainly should accept liability for some other things, but the most serious problem is that she has lied and she is trying to evade responsibility for this. The signing of those documents by Teresa CHENG means that she clearly indicated to the bank or the authorities that she had inspected the property with the clear knowledge that the property did not have any unauthorized structures not specified in the plan. It also means that she, back then, declared to the bank and the authorities that the property had no basement. Actually, if she knew at the time that the property had a basement, then irrespective of whether the basement was an unauthorized structure, she already made false statements in those documents.

However, when we asked Teresa CHENG whether she knew the property had a basement when she signed the mortgage document, she said that back then she was not in Hong Kong, she did not know about it, and she was too busy to read the document carefully. At a special meeting of the Legislative Council Panel on Administration of Justice and Legal Services, when many Members questioned her about this—I remember that Ms Tanya CHAN grilled her most ferociously—she still prevaricated and just repeatedly said that she had liability and that she did not inspect the property when she signed the document. Teresa CHENG's reply is unconvincing, and it is hard to believe that she did not make false declarations when signing the mortgage and assignment documents. We must, therefore, summon her to this Council, question her thoroughly about the true reason why the mortgage document does not show that the property has a basement, and demand that she adduce evidence to prove that she did not make false statements when signing the mortgage and assignment documents.

Moreover, as we all know, it was during the collapse of Lehman Brothers amid the financial tsunami in 2008 that Teresa CHENG bought this property at Villa De Mer—I now call this property "Teresa Palace"—for an astronomical or unreasonable price which was 100% higher than the previous owner's purchase price, and the bank actually granted her a mortgage loan in the end. We asked her why she bought the property for such a high price, and she only said that she liked the property very much—in a nutshell, as one regards what one truly likes as priceless, the price is beside the point; that she feared she would not be able to

buy the property if she delayed in making the purchase decision; that she did not want to miss the chance and so did not care about whether the price was reasonable; and that she was too busy to pay attention to the financial tsunami and the Lehman Brothers incident. All these answers are unconvincing to the public and are only leading to greater doubts. Another question, which is more serious, is whether Teresa CHENG had instructed the previous owner to complete all the UBWs before she bought her current residence. Did she ever ask the previous owner to do this sordid thing for her before selling her the property?

President, even if I were given an extra 15 minutes, it would not be enough for me to enumerate Teresa CHENG's problems. That said, I wish to point out that the motion moved by Mr Charles Peter MOK under Article 73 of the Basic Law to summon her to this Council is well-meaning, as it can provide a platform for her to explain to the public. As far as I am concerned, she does not need to explain because I am demanding that she step down. At 3:00 pm this Sunday, let us gather at Southorn Playground and march to the Department of Justice together to demand the stepping down of Teresa CHENG. It is best if she steps down before that day, so that we will not have to march. Mr MOK's motion seeks to provide a platform for her to explain, but actually this should not be the case. She should, conversely, build a platform on her own to explain herself.

The Prime Minister of Singapore, LEE Hsien Loong, earlier had a dispute with his younger brother and sister over their late father LEE Kuan Yew's former residence. LEE Hsien Loong arranged a debate on his own initiative to allow Members of Parliament ("MPs") to put questions to him, as it was in his best interests to do so. The process of the debate, which was a platform built by him to allow MPs to ask him questions, was broadcast live on television. He said he hoped to use the debate to hold himself fully accountable to the public, dispel all their doubts, and enhance their confidence in his government and him.

Teresa CHENG should have used her own resources to take such action herself. Now that a Member has proposed using this Council's resources to build a platform for her to make clarifications before this Council, if she thinks that she does not have an integrity problem, she may as well let the public know by answering questions and producing documents, and should stop excusing herself by saying that she was, as Carrie LAM put it, so devoted to public service that she neglect her private affairs. Had she been so busy, she would not have known that she could pay less stamp duty as a first-time home buyer, would she? Her decisions on when to choose to "know" and when to choose to be "busy" or

"not busy" were based on whether the choice could bring her the most benefits. As long as she said she did not know about the UBWs, the UBWs could continue to exist, and she would not be held responsible as if she had no integrity problem. That was why she said she did not know about them. As regards the option of paying less stamp duty as a first-time home buyer in a property transaction, she certainly knew it and certainly wanted to go for it because, as the saying goes, "missing out on a bargain would be worse than having one's family ruined". This is the approach adopted by Secretary for Justice Teresa CHENG, who is a professional and currently one of the most senior officials of the Government.

MR JAMES TO (in Cantonese): President, I notice that not many Members of the pro-establishment camp are here to listen to the debate, but recalling previous motions or debates of this kind, pro-establishment colleagues, especially the heavyweights, often remained in their seats. I have no intention of belittling Mr Abraham SHEK and Mrs Regina IP, but there are actually not many pro-establishment Members present. What does that mean? Is it because even colleagues of the pro-establishment camp do not know how they can help? As Mr Paul TSE has said, "it is better to have a short pain than a long one". They might want to lend a hand, but since the Secretary for Justice has not laid her cards on the table, they do not know the truth and thus cannot say confidently that she is telling the truth. What can they do then? Some colleagues might consider that they should abandon her, which is precisely the meaning of "it is better to have a short pain than a long one". Just let her step down.

I am nonetheless more concerned about how the community and people of Hong Kong think of this. In the past month, newspapers have been featuring headline reports on the developments of the incident and I have a feeling that members of the public have abandoned the Secretary for Justice, or to use another expression, they have "written her off". Although she is still the Secretary for Justice in name, she is no longer one in the eyes of the public or at least not a credible Secretary for Justice or government official. I wonder what the Government thinks of her. The Chief Secretary for Administration sitting opposite me should be reading out his views of her from the script, because when Carrie LAM was asked during the Chief Executive's Question and Answer Session if she believed the story told by the Secretary for Justice, i.e. she was unaware of the mistakes over the past 10-odd years, Carrie LAM merely replied in her capacity as the Chief Executive that given that the Secretary for Justice has

taken up such an important position, she certainly trusted her, and she still trusted her. "If it is the fact, then it is the fact."

The Chief Executive is a "good fighter"; she would surely not swallow her anger if she has been wronged and if she felt aggrieved. So, judging from her personality and style of work, she must feel utterly aggrieved this time. Yet, she has no choice as the matter is too inconceivable. Therefore Carrie LAM also described the matter as inconceivable. We said that the matter was inconceivable; she also agreed that it was inconceivable. We said that the matter was unbelievable; she echoed that it was unbelievable too. Yet, our Government stands by her anyhow.

I have no idea what the Government is doing. Is it secretly looking for a replacement or waiting for XI Jinping's decision? I cannot tell. However, it is also possible that XI Jinping has asked her to put aside other duties and focus only on matters relating to the Belt and Road Initiative and the arbitration centre, and there is no need to bother about other tedious jobs. It does not matter if she has no credibility. This is why the Government has spared no efforts to support her, and pro-establishment colleagues can only do their best.

President, I feel very miserable. How come an important government official under the existing system has come to this pitiable state? Some people think that the democratic camp must be happy to see what has happened as they can thus indiscriminately attack the weaknesses of the Government that have been exposed. President, I have no idea of what other colleagues have in mind. However, though I am not too old, I am a rather traditional person with old school mindset, I think a society must have a government to maintain law and order, no matter we like the government or not. The Government must put in place a system, no matter that is for the sake of Hong Kong people or global investors who have invested heavily in Hong Kong, or for some more noble causes of realizing the "Chinese dream", for Hong Kong or the country. After all, certain posts must be taken up by people with ability and credibility. Former Chief Executive LEUNG Chun-ying and the incumbent Secretary for Justice Teresa CHENG have brought Hong Kong to such a pitiful state and no one will believe them anymore, this is indeed very miserable and unacceptable.

Members receive some overseas delegations from time to time, and during their stay in Hong Kong, they may inevitably learn from the press about the scandals of the Secretary for Justice. Even though pro-democracy Members

would not say serve her right, and would avoid as far as possible rubbing salt on her wounds, yet how can Hong Kong people be proud to have a Secretary for Justice who has really turned Hong Kong into such a miserable state? How can we tell other people that there is no problem with our system? I really feel very difficult and sad. Perhaps some people may think that I am very hypocritical as I should rejoice in this situation, but sorry, President, I really feel very sad.

I still call her the Secretary for Justice because she is still in that position, though in the mind of members of the public and I, we are reluctant to call her so deep in our hearts. The issue under discussion is not merely unauthorized building works ("UBWs"), but covers at least a couple of levels. The first level is, society wants to know the truth. Is it true that Ms CHENG, a Senior Counsel and the so-called social elite, liked the house with an unauthorized basement so much that, being very busy, she decided to buy it right away at some \$20 million due to the presence of UBWs, but not at the market price of \$10-odd million? She therefore denied that she had taken any advantage as the property, if without the relevant UBWs, was an ordinary property at a price of some \$10 million instead of \$20-odd million. She was not the Secretary for Justice when she bought the property, but she must rectify the situation after she took up the public office and honestly revealed the truth and the facts to the public.

From a lawyer's point of view, she was a first-time buyer and had not committed any crime. Given that she was not a public officer back then, she could buy that house as a home starter, but that was only permissible in the past. Therefore, whether she is fit for the position of Secretary for Justice remains to be seen. Notwithstanding that, at least among the people I know, a great deal of them (probably 50%) opined that if the Secretary for Justice could undertake openly and frankly not to make the same mistake in future, and members of the public believed her and considered it difficult to find an appropriate replacement, they might be willing to let her off the hook and observed her performance in the days to come. But regrettably, Ms CHENG had not done so. She insisted right at the outset that she was unaware of the UBWs in her residence and to ascertain the presence of UBWs, she must engage professionals or authorized persons, but both she and her husband were not authorized persons.

Not only was she unaware of the relevant provisions in the contract, she did not know that the price she paid for the property was double that of the market price. This is a serious problem. Referring to her firm stance, has she treated the majority of Hong Kong people as fools? Is this an attempt to compel all

Hong Kong people to believe that she really has no knowledge of the UBWs? Worse still, she has forced the Chief Executive to declare, in front of the camera during the Question and Answer Session, that she believed her. She said she did not know, then the Chief Executive has to believe she did not know. Is the price a bit too high? In that case, what else can we not do?

(THE PRESIDENT'S DEPUTY, MS STARRY LEE, took the Chair)

Given that the Secretary for Justice has many important constitutional decisions to make day after day, including whether or not and how to institute prosecution, a high degree of trust is required under the system. When making decision concerning prosecution or otherwise, it is not possible to disclose all the information for every case, especially cases that are sensitive or attract great public concern. Of course, for cases involving significant public interests, it would be best to disclose as much information as possible, but trust is the key in most cases.

Deputy President, the integrity check is another issue. The Government's integrity check has been highly confidential and mysterious. It claims that further disclosure may jeopardize public interests, and under this shield, it refuses to accede to requests for information and questions. Deputy President, after a series of high-profile UBWs incidents involving key officials and even Chief Executive candidates that happened a few years ago, there is still no requirement for people undergoing integrity check to disclose information about, say, UBWs or other things that may embarrass the Government. Hence we may not trust all the public officers who took office on 1 July, because I really cannot tell how bad the system is. This should not be the case. According to the reply given by the Government in response to a question raised by me in 2012, which was just read out by a colleague, the Government had undertaken to make improvements back then.

If such a question was posed to the Secretary for Justice during the integrity check and she answered in the negative, serious problem would arise. When she was about to assume office and someone asked her if she had done anything that might embarrass the Government, shouldn't she give due consideration at that moment? On the other hand, *Ming Pao Daily News* revealed that someone approached the Secretary for Justice on 27 December but

she took office only on 5 January, so did she discuss with the Government about how the crisis could be handled during those few days? Had she withheld some information from Carrie LAM as well? If she had not come clean even to the Government during those few days after the emergence of the crisis, what actually was her intent? Had XI Jinping thrown weight behind her? Had she ignored Carrie LAM? Since someone had already cast doubt on her one week before she took office, could she postpone the date to assume office even if the Government did not regard the matter as a crisis? How actually did the entire Government operate?

Deputy President, I can only say that members of the public have already "written off" the Secretary for Justice, and we are in a state as if there were no Secretary for Justice.

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

(Mrs Regina IP indicated a wish to speak)

DEPUTY PRESIDENT (in Cantonese): Mrs Regina IP, please speak.

MRS REGINA IP (in Cantonese): Deputy President, I am sorry, I have not pressed the "Request to speak" button promptly enough.

I fully understand the feelings of colleagues who have spoken just now as I am also an elected Member, and one of my party members is now a candidate of the coming by-election. We therefore receive many views from the public every day. It is true that people have cast doubt on the Secretary for Justice owing to her unauthorized building works ("UBWs"). I am in a dilemma, and yet the Government does have its own reasons. The problem of UBWs is very common in Hong Kong, but first of all, I would like to declare that I absolutely do not have any UBWs. Given that Hong Kong is a tiny place, many people would strive to get more space by all means, so how can it be possible that only the Secretary for Justice, Mr TANG and Mr LEUNG have UBWs? As we are aware, Mr Paul ZIMMERMAN also has UBWs, so do some academics and Members of the Legislative Council. However, as colleagues, I do not want to disclose their names. As a matter of fact, the issue of UBWs has always been reported in the

press and some former high-ranking government officials also have UBWs, so this problem is indeed pretty common.

I realized that before taking office, Secretary for Justice Teresa CHENG has UBWs in her residence, a situation shared by many Hong Kong people. I certainly have no idea when she accepted the offer of the SAR Government or of the Chief Executive to become Secretary for Justice, but after listening to the remarks made by the Chief Executive, I have a feeling, but I am not sure if it is true, that the decision to accept the offer as the Secretary for Justice was hastily made shortly before the announcement, and thus she did not have sufficient time to address the UBWs problem. Of course, this is not a reasonable defence, especially for a legal and engineering professional. The legal profession often reminds us that "ignorance is not a defense", nor is busy. We fully understand the concern of members of the public.

Another dilemma is that Secretary for Justice Teresa CHENG is undoubtedly a highly competent and experienced professional. She is not only a self-learnt civil engineer, but also a Senior Counsel having very high international standing in arbitration. Given the great demand for talent in the SAR Government, it is not easy to find a candidate for the post of Secretary for Justice. I often said that of the three Secretaries of Departments, the Secretary for Justice is the most challenging post. I therefore fully understand why the Chief Executive is so reluctant to look for a replacement, especially when the SAR Government is going to table a number of important bills to the Legislative Council. The Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill was read the First time and the Bills Committee concerned will commence its deliberation next week, which will be followed by a number of legally controversial tasks to be tackled in the years to come. I am well aware of this and have also noticed that the Chief Executive has recently told the journalists in Beijing that the Secretary for Justice recommended by her had been appointed by the Central Authorities and was now committed to her work. The Chief Executive thus has no intention to make any change.

In that case, while I absolutely do not support any unauthorized act and agree that busy or ignorance—the Secretary for Justice is certainly not ignorant—should not be used as a defence, in view that the SAR Government is in desperate need of an experienced legal practitioner to take up that post and that a number of extremely challenging tasks has to be handled in the future, I therefore also agree with the Chief Executive that Secretary for Justice Teresa CHENG should be given an opportunity to carry out her work. When Financial

Secretary Paul CHAN first took office, he also had similar problems and had to face many malicious attacks, but to my great admiration, he bit the bullets and faced these attacks. What impressed me most was when he was the Secretary for Development, I once put some pretty tricky questions to him at the meeting of the Legislative Council Panel on Development, but he was able to answer them one by one. Although Mr Paul CHAN started his career as a certified accountant, he had worked very hard after assuming the post of Secretary for Development and he passed the trial after several years.

Given that it is absolutely not easy for the Government to find talent, even if the competent persons have minor deficiencies, they should be given an opportunity. Therefore, Deputy President, having regard to the overall situation, I will not support this motion to summon the Secretary for Justice, not to mention that there are many other opportunities for the Secretary for Justice to come to this Council in the future. Do Members fear that she may not come? The Bills Committee on the Guangzhou-Shenzhen-Hong Kong Express Rail Link (Co-location) Bill will hold the first meeting next week and will commence its work in the next few months. How is it possible that the Secretary for Justice will not come to this Council with the Director of Bureau to give an account of the matter? The Legislative Council will also raise a great deal of legal issues in the future, which will require her to come and explain to us and answer questions from the public. I therefore consider it unnecessary to invoke Article 73 of the Basic Law to summon her to attend before the Council as this will only cause many unnecessary repercussions, which may not be conducive to providing a stable environment for taking forward those important tasks. Therefore, the New People's Party does not support this motion.

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

MR ABRAHAM SHEK (in Cantonese): Deputy President, regarding the motion moved by Mr MOK pursuant to Article 73(5) and (10) of the Basic Law, I have been sitting here listening to the speeches of four non-establishment Members, namely Mr MOK, Mr YEUNG, Mr James TO and Mr SHIU. They requested the Government to explain whether it was right or wrong to appoint Teresa CHENG as the Secretary for Justice pursuant to Article 73(5) of the Basic Law, and they also requested the Secretary for Justice to attend before the Council to testify pursuant to Article 73(10).

First, regarding the question of whether the appointment of the Secretary for Justice is right or wrong, the appointment itself is fine, and the appointment had already been ratified under the Basic Law by the Standing Committee of the National People's Congress, a body whose level is higher than that of the Hong Kong Government. The Legislative Council has no right to raise questions in this regard, so the request for raising questions is unsubstantiated.

Second, if the request made pursuant to Article 73(5) is unsubstantiated, how can Article 73(10) be invoked to request the Secretary for Justice to attend before the Council to testify? I am examining the issue from this angle. The procedures as referred to by several Members in their speeches are all correct.

In fact, they need not invoke Article 73(10) to request the Secretary for Justice to attend before the Council to explain, for the Secretary for Justice had revealed all the facts. She had given a clear account of when she purchased the property, the circumstances surrounding her home purchase, and when she did this and that. She not only attended an interview of a radio station, but also spent two hours offering her explanation to the Panel on Administration of Justice and Legal Services. Even though this issue did not fall within the remit of the Panel and she did not need to give an account, she still came and spent two hours taking Members' questions. During the two hours, she gave a clear account of everything. She did not need to submit documents concerning her home mortgage loan, for the press had already disclosed such documents. Is there still any need for us to invoke the Legislative Council (Powers and Privileges) Ordinance to request her to provide all the documents? Deputy President, it is absurd that they request documents that are not even available to banks or the other parties.

(THE PRESIDENT resumed the Chair)

We can by no means support such a motion moved by the Honourable Member pursuant to Article 73(5) and (10). In addition, they also criticize the Secretary for Justice for another act. Yet, there is nothing wrong for her to purchase a property in the name of a company or in her personal capacity for the purpose of paying a lower rate of ad valorem stamp duty. In fact, when we discussed the "curb measure" seven years ago, we already pointed out this

loophole. Since the Government had given people such a choice, she naturally had the right to decide whether she would purchase a property in the capacity as a first-time home buyer.

President, the Secretary for Justice has offered her explanation time and again. Even if she is required to explain 100 times, facts are facts. Even if Members request her to take an oath before giving her explanation, she will only restate the facts. Furthermore, this has nothing to do with her job. Mr YEUNG accused her of disqualifying a candidate for the Legislative Council by-election, but that was her job as the Secretary for Justice, and she, being totally competent, only took that action in accordance with the law.

For this reason, the Business and Professionals Alliance for Hong Kong will not support this motion. Thank you, President.

PRESIDENT (in Cantonese): Ms Starry LEE, please speak.

(Mr Charles Peter MOK indicated his wish to raise a point of order)

PRESIDENT (in Cantonese): Mr Charles Peter MOK, what is your point?

MR CHARLES PETER MOK (in Cantonese): President, just now, I noticed that the Deputy President asked if any Member would like to speak, and as no Member had made an indication, she was about to call upon the Chief Secretary for Administration to speak. At this point, Mrs Regina IP stood up. I just saw Deputy President Ms Starry LEE pressing the button while sitting on the President Chair. President, in my view, this arrangement has posed a very serious problem. How could the Deputy President do that? I wonder if she prolonged the proceedings of the Council because she had made an indication to speak just now, sparing the Chief Secretary for Administration the need to respond for now ...

PRESIDENT (in Cantonese): Mr Charles Peter MOK, this is not a point of order.

MR CHARLES PETER MOK (in Cantonese): President, I consider this arrangement has posed a very serious problem. What if there is collusion between the President and the Deputy President?

PRESIDENT (in Cantonese): Mr Charles Peter MOK, this is not a point of order. Please sit down.

MR CHARLES PETER MOK (in Cantonese): This really is a point of order. You have not observed the rules of order.

PRESIDENT (in Cantonese): Mr Charles Peter MOK, please sit down. During the Third Reading debate earlier on, I asked if any Member wished to speak. At first, Dr Helena WONG had not indicated any intention to speak. It was not until I had put the question to Members that Dr Helena WONG rose to indicate her intention to speak. Yet I have still given permission for her to speak.

MR CHARLES PETER MOK (in Cantonese): President, what I was saying is that the Deputy President has let you resume the Chair because she intended to speak when she was presiding over the meeting on your behalf. This arrangement has posed a very serious problem.

PRESIDENT (in Cantonese): Ms Starry LEE has the right to speak. Why should her be barred from speaking? It is only me, as the President, who do not have the right to speak. Please sit down.

MR CHARLES PETER MOK (in Cantonese): In our view, this arrangement is simply ...

PRESIDENT (in Cantonese): Mr Charles Peter MOK, please sit down. Ms Starry LEE, please speak.

MS STARRY LEE (in Cantonese): President, Mr Charles Peter MOK should not be so annoyed. I do not understand why I should not have the right to speak in my capacity as Deputy President. I had intended to speak when I was presiding over the meeting just now. For the sake of fairness, I had first asked if any other Member wished to speak before I called upon the Chief Secretary for Administration to reply. As Mrs Regina IP stood up as soon as I called upon the Chief Secretary to reply, I gave her the permission to speak first. When I learnt that no other Member wished to speak, I already had the intention to seek an opportunity to speak. I do not know why Mr MOK considered this arrangement to be a problem. In my view, I have the right to speak and I should strive to speak at this moment lest he should think that I have no intention to speak on this issue. I had done something similar before. As the Deputy President, I have the right to speak as well. I hope that he will not deprive me of this right.

President, Mr Charles Peter MOK invoked Article 73 of the Basic Law today to summon the Secretary for Justice to testify and produce relevant documents and records in relation to the unauthorized building works ("UBWs") in her residence. The Secretary for Justice is the legal adviser and a principal official of the SAR Government, and she is even the key figure safeguarding Hong Kong's rule of law. It is absolutely understandable that the community at large have extremely high expectations of public officers who have been vested with public power. Every decision made by public officers will affect the local community, every member of the public and even the next generation. The UBWs controversy has arisen immediately after the Secretary for Justice's assumption of office. She has literally got in trouble before even starting her work.

President, after Teresa CHENG's name had been tied to the position of Secretary for Justice, a reporter asked me if I had known anything about her. I said that I really did not know her. Before she took up office, I had never had any formal conversation with her. Nor had I contacted or met her shortly after the UBWs controversy upon her assumption of office. However, members of the community who had been acquainted with her have a good impression of her and generally consider her to be the suitable candidate for the position. In the legal sector, she has made remarkable achievement particularly in terms of promoting international arbitration. She had also taken up major public offices for the previous Administrations many times.

I was very pleased at that time because the suitable candidate for the position of Secretary for Justice must be someone endorsed by the community, qualified and trusted by the Chief Executive and the Central Authorities. It is indeed not easy at all to identify a candidate to take on this "hot potato". No one would have expected that the media had uncovered the UBWs in her residence on the day Ms CHENG assumed office. The controversy has kept escalating. The way in which the Secretary for Justice handled the incident has indeed been far from satisfactory. The incident has lingered for nearly a month. It is honestly very regrettable that it has dealt a blow to the Secretary for Justice herself and the SAR Government.

The UBWs incident has been covered by the media for many days, and the Secretary for Justice has repeatedly offered her explanation in public. In my view, the public generally would have made their own judgments based on the ins and outs of the incident. The way in which the Secretary for Justice handled the incident has disappointed me in two ways to say the least. First, the Secretary for Justice is suspected of negligence because she had failed to get herself "cleaned up". Before taking up office, she should have her UBWs completely removed. Second, the way in which she handled the crisis has escalated, rather than resolved, the controversy. Frankly speaking, the incident has already cost the SAR Government and the Secretary for Justice dearly in political terms.

President, elite professionals who are willing to enter the "hot kitchen" of politics should absolutely be commended. It really takes courage to make a decision to enter the "hot kitchen" given the need to adapt to Hong Kong's political environment. It can be seen from the entire incident that the Secretary for Justice has actually underestimated the temperature of the "hot kitchen". The accountability system seeks to invite social elites to become accountability officials. However, most principal officials under the current Administration come from the civil service. Apparently, elite professionals outside the Government really have some fear about entering the "hot kitchen". The reason is very clear. For a non-political figure to enter the "hot kitchen", whatever he or she had done in the past as a non-political figure will be examined with a magnifying glass, which may cause trouble at any time. President, in fact, the "hot kitchen" is really extremely hot.

The Secretary for Justice should really have been commended for her willingness to enter the "hot kitchen". As she had already made the decision, she should be prepared to undergo a thorough check. Apparently, she had not

been well prepared. Before accepting the appointment, she had not adjusted her mentality well by examining herself from the perspective of the public. We often require candidates to get themselves "cleaned up" first, which means they should properly review what they have done. In addition, in hindsight, the Secretary for Justice apparently has to work harder to improve her response to the media and to Members' questions in the Legislative Council.

President, on the second day after the incident had been reported, the Secretary for Justice immediately pledged to make rectifications. In addition, she repeatedly apologized publicly to the people of Hong Kong and came to the Legislative Council to respond to Members' questions in person. Contrary to Mr Charles Peter MOK's suggestion, I do not consider it necessary to summon the Secretary for Justice to attend before the Council. However, I strongly hope that the Secretary for Justice will grow wiser with experience and learn a lesson from the incident. There are many difficult tasks and challenges ahead for the SAR Government. Many tasks have to be tackled by the Secretary for Justice, including the co-location arrangement and the legislation of the National Anthem Law of the People's Republic of China, etc. I really look forward to seeing that the Secretary for Justice will learn a lesson so as to be better prepared for her role. With her professional knowledge and experience, she should safeguard the principle of "one country, two systems" and Hong Kong's rule of law so as to win back public support with her work performance.

President, the incident has also given rise to a question: Why has the SAR Government failed to defuse this "bomb" despite its pre-appointment integrity check on principal officials? Many members of the public who met me on the streets also asked the same question. The purpose of "medical examination" is to identify problems with our body in advance so that the problems can be prevented or cured in time before deteriorating. However, the incident has clearly shown that the integrity check of the Government has not been effective in defusing the political bomb for the public officer concerned in advance.

According to number of people, in the wake of the last Chief Executive election, many people should have realized that the UBWs issue is a "killer" of one's political career, and public figures should have become highly alert. However, this is not really the case. This may simply be our wishful thinking. Apart from the Secretary for Justice, a number of politicians, including those who are running for election and Members of the Council, have also been entangled in the UBWs controversy. According to the press, Ms Claudia MO and Mr LAM

Cheuk-ting have also been involved in UBWs or illegal structures. A report has even queried that Ms MO's conversion of a garage for residential use has yet been rectified. Recently, most people are certainly discussing the case of Paul ZIMMERMAN, a candidate for the by-election of the Architectural, Surveying, Planning and Landscape functional constituency who had been found to have additional structure in his village house. His property had even been imposed an encumbrance by the Buildings Department in 2008 due to an unauthorized rooftop structure ...

(Mr Jeremy TAM indicated his intention to raise a point)

PRESIDENT (in Cantonese): Ms Starry LEE, please hold on. Mr Jeremy TAM, what is your point?

MR JEREMY TAM (in Cantonese): President, as Mr Paul ZIMMERMAN is running for the Legislative Council by-election, I consider it inappropriate for Members to comment on any candidate during the Legislative Council meeting. Thank you, President.

PRESIDENT (in Cantonese): I understand that Ms Starry LEE has made reference to one candidate, but she was simply citing newspaper reports. I consider that Ms Starry LEE should be allowed to continue her speech. That said, Ms Starry LEE, please exercise caution and avoid making reference to any candidate.

MS STARRY LEE (in Cantonese): Our arguments are based on facts only. What I have just said was all facts available to the public. I am also very familiar with election laws. Apart from Mr Paul ZIMMERMAN, Mr Tony TSE is also running. As we all know, the property owned by Paul ZIMMERMAN had been imposed an encumbrance by the Buildings Department for an unauthorized rooftop structure in 2008. He had all along failed to take any action. It was not until he had been confirmed a qualified candidate recently that he hastened to remove the structure. President, in this case, Paul ZIMMERMAN is standing for the election for a professional sector. Given his professional background, he is standing for the by-election of the Architectural, Surveying, Planning and Landscape functional constituency. Yet he had

unauthorized structures added to his residence. More than 10 years after he had received a warning from the Buildings Department regarding the encumbrance on his property, he had still failed to remove ...

(Mr Jeremy TAM indicated his intention to raise a point)

PRESIDENT (in Cantonese): Ms Starry LEE, please hold on. Mr Jeremy TAM, what is your point of order?

MR JEREMY TAM (in Cantonese): President, Ms Starry LEE has been repeating the expression "standing for election", and I consider the problem is serious. If you do not consider this to be her attempt to influence the election, I will also call your judgment into question. The safest way to do is ... In fact, I am not trying to stop Ms Starry LEE from making reference to those incidents. However, she has time after time mentioned a person's name and the fact that he is standing for election; and then she has repeatedly pointed out his wrongdoing. Such remarks may definitely influence the election.

PRESIDENT (in Cantonese): Let me remind Members once again that during the election period, Members should avoid making any reference to such expressions as "election" or "standing for election" in their speeches. I understand that in the press there are many ...

(Ms Starry LEE indicated her intention to raise a point)

PRESIDENT (in Cantonese): Ms Starry LEE, what is your point?

MS STARRY LEE (in Cantonese): President, if you ask me to stop speaking, please point out which rule of the Rules of Procedure I had breached. I consider my speech to be absolutely relevant to the subject under debate.

(Mr Charles Peter MOK indicated his intention to raise a point)

PRESIDENT (in Cantonese): Mr Charles Peter MOK, what is your point?

MR CHARLES PETER MOK (in Cantonese): President, you are the Chairman of the Legislative Council Commission ("the Commission"), and Ms Starry LEE is the Deputy Chairman of the Commission. At a meeting of the Commission, we had discussed that no one should engage in any activities inside the Legislative Council Complex to assist or hinder the campaign of any election candidate. Do Members enjoy any privilege in the debate in the Chamber? President, the Commission has issued a letter to all Members to explain this point. I hope you will carefully consider whether to allow Ms LEE to make such comments. Frankly, she can say whatever she wants. On the contrary, I do not understand why you have discontinued her speech. Please clearly define the scope of Members' speeches.

PRESIDENT (in Cantonese): I once again remind Members not to express views which may be construed as facilitating or hindering the election campaign of any candidate, or other views with similar effect. Members should exercise caution when they speak.

MS STARRY LEE (in Cantonese): President, I understand. As we can see, the opposition Members sitting across the aisle have put up placards reading "Breaking the law deliberately, devoid of any integrity". In fact, is there just only one person who had lost integrity as a result of UBWs? I hope Members will ask themselves honestly: When they are criticizing other people, have they also criticized the fellow members of their camp? When Mr Charles Peter MOK, the proposer of the motion, was asked to respond to the UBWs case of the gentleman I have just made reference to, I have noticed that he said that he had nothing to add because the gentleman had already offered an apology and explanation. On the one hand, opposition Members have been in hot pursuit of the Secretary for Justice, contrary to their reaction to the other UBWs case. I really cannot convince myself that this is not political jockeying.

President, I have also noticed that Mr Charles Peter MOK's motion has not only sought to summon the Secretary for Justice to testify, but also requested the production of all documents relevant to the public works-related business of the company under her husband's name. I have noticed many different views in the commentaries in newspapers. However, I believe that we should uphold one principle. In fact, those claims have not been substantiated so far. We should also understand that newspaper reports are of course written to draw the interests of readers. However, there has been no evidence or data so far to suggest any

non-compliance of the public works-related business of the company under the name of the Secretary for Justice's husband. In my view, given the current circumstances, it is indeed unacceptable to support the motion to require the people concerned to produce relevant materials to the Legislative Council by invoking the Legislative Council (Powers and Privileges) Ordinance.

President, the damage has been done by the Secretary for Justice's UBWs controversy. She has also offered an explanation and apology, and has pledged to make immediate rectifications. In my view, she should be allowed to return to work to make up for the time lost so that she can gain the recognition of the public with her performance. Therefore, I consider Mr MOK's motion to summon the Secretary for Justice to be unnecessary. Given that the incident has been uncovered for a month, the community at large have already made their judgments. In fact, there are indeed inadequacies on the part of the Secretary for Justice in handling the incident. I also believe that the incident before us is no more than political jockeying. I expect that whatever information to be further produced by the Secretary for Justice will never be accepted by the opposition camp. As far as my understanding goes, it is just political jockeying for the opposition camp to keep adding fuel to the flame. Apart from sniping at the Secretary for Justice herself, they are also intent on hindering her work. After all, a public officer who comes under constant sniping from outside the Government will be distracted from work. At the same time, the SAR Government may need to step up effort on crisis management. More importantly, as the election is drawing near, I believe that they hope to create controversy unfavourable to our side.

President, I would like to draw Members' attention to the fact that we have actually discussed a number of motions moved to summon public officers in the past few weeks. The motion under discussion today seeks to summon the Secretary for Justice, so did last week's motion. We discussed summoning the Secretary for Development the week before last, and the Commissioner of Police in the preceding week. I hope that fellow Members will ponder if such motions will benefit the development of the Hong Kong community. Instead, it will be more desirable for us to put aside the political jockeying so that the Council can debate on the motion of "Establishing a comprehensive 're-industrialization' policy regime". In this way, Members can put forward more specific and substantive views on the developments of Hong Kong.

With these remarks, President, I oppose Mr Charles Peter MOK's motion.

MR KENNETH LAU (in Cantonese): President, I oppose Mr Charles Peter MOK's motion that, pursuant to Article 73(5) and (10) of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, this Council summons the Secretary for Justice to attend before the Council on 28 February 2018 to testify and to produce all relevant papers, books, records or documents regarding issues in relation to whether she is still fit for the position of Secretary for Justice, including the unauthorized building structures in her residence, the process of purchasing the property concerned, the company or companies under her name, the public works-related business of the company under her husband's name and whether she was involved in any concealment of facts regarding the aforesaid issues and in the process of integrity check, and all other related matters.

I believe Members all recollect that when the Secretary for Justice assumed office on 6 January this year, the media uncovered unauthorized building works ("UBWs") in her house. Over the past month since the occurrence of the incident, the Secretary for Justice has given an account to the public on various occasions, including holding press conferences, offering an explanation on radio shows, taking questions from the audience and taking Members' questions at the Legislative Council; and she has apologized to the public for her negligence. All these indicate that the Secretary for Justice is upfront and honest, and she is willing to take responsibility rather than dodge the issue. Now that the Member still summons the Secretary for Justice to attend before the Council to offer an explanation, I wonder what his intention is. Does he want to magnify indefinitely the negligence of the Secretary for Justice, take advantage of the Council as a platform to conduct a public trial, capitalize on the incident to attack the Government in respect of policy implementation and governance, and drag Hong Kong again into a spiral of infighting and attrition?

Undoubtedly, the fact that the Secretary for Justice had not examined whether there were UBWs in her residence before deciding to join the Government and take up the post of Secretary for Justice has definitely reflected her carelessness, or even negligence, as well as the lack of political sensibility. There is room for her to make improvements. However, as the Secretary for Justice has all along been dedicated to legal work and she is not a political figure, allowances should be made for her political vigilance being lower than that of other accountability officials. In addition, as far as the UBWs controversy is concerned, the Secretary for Justice has not been involved in criminal acts even though she has made mistakes. She should not be punished by being

"beheaded". I believe that she will learn from her mistakes, raise her sensibility in the future, and take actions to dispel public suspicions about her.

In fact, regarding the current controversy over UBWs, the public has mainly raised two queries concerning the Secretary for Justice: first, did the Secretary for Justice carry out the UBWs after purchasing the property; second, did the Secretary for Justice knowingly violate the law given that she knew there were UBWs in the property after the purchase. In this connection, I once again reviewed the explanations given by the Secretary for Justice earlier. As for the first query, the Buildings Department issued a press release in the night of 22 January saying that having reviewed the aerial photos taken by the Lands Department, it confirmed that the rooftop structure, the horizontal extension and the glass canopy of the Secretary for Justice's residence, namely House 4 of Villa De Mer, Tuen Mun, were already in existence before she purchased the property. As regards the basement of the house, the Department said that it had no evidence showing when it was constructed.

As for the second query, that is, whether the Secretary for Justice had knowingly violated the law, she has actually given her explanation time and again, acknowledging her negligence and her neglect of private affairs due to engagement in public service. And she has apologized to the public time and again. Her support of the investigation conducted by the Buildings Department reflects her willingness to tackle the problems immediately.

President, I know that the UBWs incident will inevitably affect the public's perception of the Secretary for Justice, and members of the public have higher integrity requirements on accountability officials than on ordinary people. This is understandable. However, can we see the other side of the incident from another angle? Over the past one month, the Secretary for Justice has been living under immense pressure. Not only was her personal image tarnished, but her family was also affected. Media workers waited all day long in front of her residence, resorting to even aerial photography and clandestine filming, leaving her with no privacy whatsoever. At such a difficult moment, an ordinary person would have been disheartened and departed, but the Secretary for Justice is instead willing to face up to the situation and tackle the difficulties.

Frankly speaking, given her status in the legal profession and her competence, Teresa CHENG simply did not need to enter the "hot kitchen" of the

Government, to be monitored by the media and to be subject to all sorts of remarks. Given the current pan-politicized atmosphere of Hong Kong where things are either black or white, it is really difficult to identify competent persons to join the Government, especially for the post of Secretary for Justice. I believe it is really difficult to identify a talent who is willing to sacrifice his own career to take up the work.

Departure is easy. As the saying goes, it takes little effort for one to leave, but it takes a great deal of courage to stay. If the Secretary for Justice can withstand pressure and continue to be determined to serve Hong Kong, why can't we give her a chance and allow her to spend some time performing the tasks at hand? Is it that Members will only be pleased if she is pursued and attacked ceaselessly, her past records reviewed constantly, and she is summoned to the Council to be humiliated? Is it that Paula TSUI's joyful song will be played as soon as the Secretary for Justice steps down?

Hong Kong society has been highly politicized in recent years, and the Legislative Council has degenerated into a platform for the opposition to put the Government and officials on public trial. Earlier, the Secretary for Justice attended a special meeting of the Panel on Administration of Justice and Legal Services to give a detailed account of the UBWs incident. Noting that the controversy had started to cool down, the opposition took advantage of the Council to summon the Secretary for Justice, in an attempt to hype the issue again and stir up troubles, so that she would not be able to focus on her new tasks, including the local legislative exercise for the co-location arrangement.

President, it was uncovered that certain opposition political figures also have UBWs in their homes, but some of them were unrepentant and took no follow-up actions. Their unscrupulous attack on the Secretary for Justice basically underlines their double standards and unpopularity. President, I believe that most members of the public are willing to give room to and show more tolerance towards the Secretary for Justice, so that she will be able to concentrate on discharging her duties and serving the community. For this reason, I oppose Mr Charles Peter MOK's motion.

President, I so submit.

MR CHUNG KWOK-PAN (in Cantonese): President, we understand that public figures or political figures are subject to public oversight, and it is very normal to inspect what they did in the past. The Government intends to, through the accountability system, invite outside elite, including members of the commercial sector and professionals, to join the Government, so as to bring in new thoughts to facilitate future development or governance of Hong Kong, rather than merely rely on the traditional civil service.

While the accountability system has developed for some 10 years, I believe more and more outsiders are unwilling to join the Government, for they need to be whiter than white. However, it is extremely difficult for one who has lived and worked for decades to be whiter than white. In many cases, we forget what we did in the past. President, if I ask you where you went on a certain day some 10 years ago and with whom you took a photo, I believe you might not remember. But if someone found a photo and asked you the same questions, you might not be able to come up with an answer. Under the accountability system, outsiders will easily run into trouble if they do not adapt to the heat inside this "hot kitchen" and if they are not accustomed to crisis management.

There are many such examples in the past. For example, in the "penny stock incident" that happened during the first term of the SAR Government, Secretary Frederick MA was the first senior official to bow and apologize, yet he had the highest approval rating when he left office. This proved that he was initially not accustomed to the environment, but he was able to gradually manifest his capabilities as time passed. Another example is Secretary Paul CHAN who was involved in the "subdivided unit incident", but he was very dedicated to his work as a Secretary. In his capacity as the Financial Secretary today, he will, I believe, give us a good performance. Even civil servants could run into trouble. Roughly a week after former Secretary for Development MAK Chai-kwong's assumption of office, it was exposed that he had collaborated with another person some 20 or 30 years ago in renting each other's flat and applied to the Government for rent subsidies, but the Court of Final Appeal ultimately acquitted and vindicated him. As indicated in the aforesaid case, for incidents that happened decades ago, the persons concerned might not be too certain what had happened or he might have forgotten what had happened, yet they are being held accountable today and are being condemned. I think this is not fair.

It would be most desirable if immediate measures were taken after the occurrence of the incident for proper rectification. We certainly know that Secretary for Justice Teresa CHENG's handling of the matter is far from

satisfactory. If, after being disclosed by the media of UBWs in her Tuen Mun residence, she could give a clear account and at the same time disclosed that there were UBWs in her other property in the Southern District, the incident would not have become so serious to date. Many people have all along forced her to come forward and give an explanation, but she did not do so in the first instance, thus giving people an impression that she was procrastinating. Only until two weeks ago did she attend a meeting of the Panel on Administration of Justice and Legal Services, at which she spent some two hours taking questions from Members and she apologized time and again.

I believe that even if the motion is passed today and Secretary for Justice Teresa CHENG is summoned to attend before the Council, Members would ask her questions they already asked two weeks ago, and she would give answers she already gave two weeks ago, as there has been no further development. In addition, she has said that she would expeditiously address all problems concerning UBWs, and good progress has been made in this regard. If we pressed the Secretary for Justice further and did not give her a chance, we would not know that she was very capable, as in the case of Secretary Frederick MA, if we did not give him a chance at that time, we would not know that he was very capable.

I believe that professionals in the private sector will lead a more comfortable life if they do not enter the "hot kitchen" of the Government. As a Senior Counsel, Teresa CHENG's income must be many times higher than what she earns as the Secretary for Justice; her privacy will be properly safeguarded and she will have a sound sleep at night. Why did she decide to join the Government? I think she primarily hopes to serve the community, serve members of the public, and make use of her expertise to work for Hong Kong or the SAR Government. Why should such a capable person be pursued in such a way? In fact, many cases have proved that certain outsiders who joined the Government and served as senior officials were initially not accustomed to the environment and were not well versed in crisis management, but ultimately they are able to perform well and serve the SAR Government.

For this reason, we should give the Secretary for Justice time and room for her to manifest her capabilities and act as a good gate-keeper for the judicial system of Hong Kong. Thank you, President. The Liberal Party opposes this motion.

MR CHRISTOPHER CHEUNG (in Cantonese): President, I speak in opposition to the motion moved by Mr Charles Peter MOK to summon the Secretary for Justice. I think this motion has no other substantial function other than summoning the Secretary for Justice to the Legislative Council to be chastised and denounced by opposition Members as much as they like. Not only does this motion, which seeks to pursue the Secretary for Justice ceaselessly, fail to help her rectify the unauthorized building works ("UBWs") in her property, but also wastes the precious Council's time. This motion is worthless and should not be supported.

The Secretary for Justice is a Senior Counsel possessing Chartered Engineer qualification, and her husband is a former President of the Hong Kong Institution of Engineers. Undoubtedly, there were indeed inadequacies in her handling of UBWs in her residence, thus giving rise to negative perceptions. It will be difficult for members of the public to be tolerant simply for reasons of "lacking political sensibility" or "being devoted to public service to the neglect of private affairs".

Despite the inadequacies of the Secretary for Justice in handling UBWs, her mistake is definitely not fatal in any event. More importantly, she took immediate remedial action pursuant to relevant rules following the revelation of the incident. Any calm and sensible person should have seen that following the disclosure of UBWs in her residence, the Secretary for Justice issued a statement apologizing to the public in the first instance; she also appeared in person to offer explanation, stressing that the villa was already in this present state when she purchased it, and no structural changes were made. She further pledged that should there be any non-compliance, she would tackle them pursuant to the requirements of the Buildings Department, and she would not get involved in the prosecution to ensure fairness and impartiality. Afterwards, the Secretary for Justice went to a radio station and the Legislative Council to give a candid account to the public and Members respectively.

I think what the Secretary for Justice did could dispel public concerns. I also believe that the account given by the Secretary for Justice previously was candid and comprehensive. Under such circumstances, I think what we should do now is to give room and time to the Secretary for Justice, so that she can properly handle the UBWs incident. Conversely, summoning the Secretary for Justice to the Council to be denounced not only fails to help relevant departments such as the Buildings Department to conduct investigation and take follow-up actions, but it will also fail to help the Secretary for Justice rectify the UBWs in

her properties. It can at most enable opposition Members to vent their anger, so it is indeed not necessary to summon her.

Mr Charles Peter MOK's motion may even result in having counter effects. He requested the Secretary for Justice to explain whether she has concealed any facts in the process of integrity check and to produce the relevant documents, but as we all know, when attending a special meeting of the Panel on Administration of Justice and Legal Services earlier, the Secretary for Justice already explained that the process of integrity check should be kept confidential. Opposition Members are virtually forcing the Secretary for Justice to do something against her will when they aggressively demand an explanation from her, and their request for production of the relevant documents will likely give rise to disclosure of confidential information, causing negative impacts.

In addition, I think the incident is purely attributed to the inadvertent mistakes of the Secretary for Justice, having nothing to do with her integrity or capability. As for the opposition Members' accusation about the integrity problem, I think they are unscrupulously exaggerating the Secretary for Justice's inadvertent mistakes, making much ado about nothing.

President, I am most perplexed that following the disclosure of the UBWs incident of the Secretary for Justice, opposition Members were like sharks excited by the smell of blood. Although the Secretary for Justice has explained and apologized time and again, they are still very aggressive as if they vow to have the Secretary for Justice "beheaded". In contrast, they basically make no mention of and turn a blind eye to the UBWs of other people, such as Ms Claudia MO, let alone demand an explanation. Such double-dealing and double standards are honestly laughable. We can thus see that opposition Members basically seek no justice or truth. They are strict with others while lenient towards oneself, resorting to every possible means to achieve their own political ends.

Finally, I sincerely hope that the Secretary for Justice will learn from her mistakes, understand the high expectations placed on officials by the public, and act in a more prudent manner regarding public or private affairs in the future, so as to better serve the community.

I so submit. Thank you.

MS ALICE MAK (in Cantonese): President, I take pity on you and the Deputy President, as you are both in a difficult situation. You will be chastised for allowing a Member to speak, and you will likewise be chastised for not allowing a Member to speak. As far as I can recollect, you had asked a couple of times rapidly whether any other Member wished to speak, saying that if no other Member wished to speak, you would ask the government official to reply, and opposition Members on that side invariably stood up and chastised you. If my memory has not failed me, there was even an occasion on which you had to suspend the meeting and review the video recording before deciding whether to allow them to speak. President, if you ask rapidly whether any Member wishes to speak, they find fault with you; if you do so slowly, they likewise find fault with you. Now, they even claim that the Deputy President has no right to speak. Is it not absurd that the Deputy President is not even allowed to speak?

Furthermore, if we pro-establishment Members rise to speak, they blame us for filibustering; if we do not speak, they blame us for not listening to their speeches, saying that we favour the Government for purposes no one knows. We are in the wrong regardless of whether we speak or not. In fact, the logic of the opposition is very simple, that is, we are in the wrong regardless of what we do, and only they are in the right. In coin tossing, if the upper side is "head", they are the winner, and if the upper side is "tail", we are the loser. All are subject to their manipulation.

Earlier they proposed various censuring motions or summoning motions, but whether such motions are ultimately withdrawn or discussed at the meeting depend totally on their will. What are they up to? They want nothing but manipulate the Council's time, so as to dominate the legislature. Regarding such overbearing behaviour, I believe people watching the live broadcast must have an understanding of the present situation. Apart from this summoning motion, there were originally various other censuring motions and summoning motions on the agenda, but opposition Members have withdrawn the motions at will even though they displayed such a strong eagerness to discuss such motions previously. A motion supposed to be discussed today was withdrawn. Do they really want to discuss that motion? Do they really want to seriously deal with that motion? No, they simply want to have their own way by proposing summoning motions or censuring motions, and their manipulation of their speaking time in the legislature enables them to say whatever they like and do whatever they like at any time. People watching the live broadcast must clearly see such overbearing behaviour.

President, I will get back to this motion. In fact, it is indeed a pity that the controversy over the unauthorized building works ("UBWs") occurred immediately after the Government's announcement of the appointment of Teresa CHENG as the Secretary for Justice. Subsequently, her handling of the matter was likewise disappointing. I often ridiculed the SAR Government for not making any public relations efforts. It seems that there is a lack of public relations efforts, and many public relations disasters have arisen instead. The Government's handling of the matter was indeed disappointing. How should the Government give a clear account to the public following the disclosure of the problems? How should it enable members of the public to know the truth? How should it tackle the problems afterwards? Following the emergence of the problems, it is most important to seek a solution. However, judging the Government's handling of the matter, my colleagues and I query whether it could have done a better job in a more professional manner.

Given the occurrence of such an incident at the very beginning of the tenure of the Secretary for Justice, her future work will probably be very challenging. The Secretary for Justice must make greater efforts to overcome difficulties, and win the trust of members of the public through her future achievements. In the near future, the Legislative Council will require the assistance of the Secretary for Justice in dealing with many pieces of legislation, such as the legislation on the co-location arrangement and the National Anthem Law. Such tasks require a bold and resolute Secretary for Justice. I hope that the Secretary for Justice will make greater efforts in her future work, so that Hong Kong people will see her achievements and capabilities.

Regarding the UBWs in the residence of the Secretary for Justice, I think the relevant department must handle the case impartially and in accordance with the law. No special treatment should be given to the Secretary for Justice with regard to her status. In the case of a candidate from a professional sector running for the Legislative Council by-election, he ignored the removal order issued by the department, and an encumbrance was thus imposed. If the Secretary for Justice likewise ignores the removal order issued by the government department and refuses to demolish her UBWs, the department should tackle the issue in an impartial manner. If an encumbrance was imposed in the case of that candidate, an encumbrance should likewise be imposed in the case of the Secretary for Justice. The department should adopt the same approach toward the issue and should not let off the Secretary for Justice. Of course, the

Secretary for Justice can, like what the candidate did, ignore the removal order and remain nonchalant even if an encumbrance has been imposed.

As for this summoning motion, its political significance is, as I said just now, overriding. If opposition Members can at any time easily withdraw the censuring and summoning motions, it follows that they have no intention whatsoever to deal with the essence of such motions. Rather, they only want to manipulate the Council's time, so as to bring everything under their control.

Do they want to tackle or resolve the UBWs problems in the home of the Secretary for Justice? Obviously not. By summoning the Secretary for Justice to attend before the Council, they either burst into a torrent of abuse or stage a political show. How could we wish to turn the Chamber of the Council, a place for conducting formal discussion of policies, into a place for the opposition to stage political shows?

For this reason, we oppose the motion moved by Mr Charles Peter MOK pursuant to Article 73(5) and (10) of the Basic Law. Thank you, President.

MR HOLDEN CHOW (in Cantonese): President, first of all, I must clarify certain accusations. This morning I read from reports that certain opposition Members accused the pro-establishment Members of filibustering for the reason of impeding this summoning motion or for fear of handling this motion. I think such remarks are false accusations and defamation.

Just now Ms Alice MAK hit the nail on the head. She repeatedly said that the opposition camp seemed to think that everything they did was right and everything the pro-establishment camp did was wrong. We discussed the bill on the sale of alcohol to young people under 18 this morning. We spoke against the proposal of giving power to law enforcement officers to enter private domestic property and we thought that the power was disproportional ...

(Mr Jeremy TAM indicated a wish to raise a point)

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

MR JEREMY TAM (in Cantonese): President, is there any relationship between what Mr Holden CHOW was speaking and the subject of this debate? He has spoken for one minute.

PRESIDENT (in Cantonese): Mr Holden CHOW, please speak on the subject of the debate.

MR HOLDEN CHOW (in Cantonese): President, I now go back to the motion. Just now I was mainly trying to clarify that we were not filibustering, as claimed by the opposition camp. As a responsible Member, I am duty-bound to clarify the relevant principles concerning the bills that I am concerned about. President, Mr WONG Ting-kwong also felt that we were treated unfairly. He queried why opposition Members, who filibustered all the time, accused us of filibustering now. To be honest, this is unacceptable.

President, concerning this summoning motion, the fact that the Secretary for Justice has unauthorized building works ("UBWs") in her residence has indeed aroused great controversies and heated discussions among people of Hong Kong. For a period of time, the public might even have doubts about the Secretary for Justice. Regarding the occurrence of this incident and the handling process, the Secretary for Justice might not have handled the matter adequately and has not given the public a very clear account. As I have pointed out in the past, her political sensitivity was inadequate. Although she is a seasoned legal professional, a Senior Counsel with certain authority and status in the profession, she is new to such a highly political sensitive position and her handling of the matter might be devoid of the required political sensitivity and maturity. I had raised this criticism before.

Nevertheless, with the passage of time, I noticed that the Secretary for Justice made a clean breast of the incident at a meeting of the Legislative Council Panel on Administration of Justice and Legal Services. At the meeting ... We noticed that during the two-hour meeting of the said Panel, the Secretary for Justice answered questions raised by Members of various political parties and groupings, especially questions related to UBWs in her residence in an open and frank manner. At that meeting, she gave a more detailed and comprehensive account of the UBWs incident.

Of course, I also noticed that opposition Members kept asking the same question over and over again. Even though the Secretary for Justice had replied, they asked the same question again, perhaps in different forms. Members of the public thus queried whether opposition Members kept asking the same question or using different ways to pursue the same question for the purpose of forcing the Secretary for Justice to give the answer they wanted and they would only stop after they got what they wanted.

If so, I think we must find out clearly ... If one already has a stance when asking questions and wants the other party to give the answers that he wants instead of finding the objective facts to make a judgment, then this way of asking questions has, to a certain extent, deviated from the standard of an objective investigation. To put it plainly, this approach of questioning will only give people an impression that they want to achieve a certain objective through raising questions. In this connection, I wish make one point clear. While the Legislative Council should be accountable to the public and should raise questions on important matters and conduct investigations on certain issues, we must be careful not to allow some people to use the Legislative Council as a platform to achieve their personal objectives, even if they are not putting on a show.

President, I do not want to see our platform being abused and degenerated into a tool to be manipulated for achieving certain objectives. I think it will be unfair to the public. As I have repeatedly pointed out in the past, the time and resources of the Legislative Council are precious. When we spend time to handle one matter, we will have to sacrifice other agenda items. We must understand that the agenda items pending our examination are livelihood-related issues that we want to address. When we spend time to discuss certain issues which will turn the Legislative Council into a tool or a platform for someone to put on a show, we will sacrifice the Council's time for handling other agenda items. Under this principle, I think we cannot handle these summoning motions rashly. This is an important principle.

Over the past few weeks, opposition Members have proposed a series of motions to summon various officials including the Commissioner of Police, the Secretary for Development, the Secretary for Transport and Housing, and their target today is the Secretary for Justice. The questions raised by them include a wide range of different subjects, and as I have pointed out time and again, such issues can be handled through other channels in the Legislative Council.

However, they ignore all those channels but insist on putting the issues on the agenda of the Legislative Council. Once this door is opened, I am afraid that the Legislative Council will be easily turned into a platform to be manipulated by the opposition Members for undertaking certain work, so that they can make use of the agenda to achieve their goal, and impede our work of addressing the livelihood problems.

President, the Secretary for Justice has already given an account of the incident and I hope the public's concern has been allayed. I have heard some comments in the community ... Of course, the Secretary for Justice's handling of the matter at the initial stage did attract certain views and criticisms. But, after all, the Secretary for Justice has to handle daily work and her position is very important. If we continue to pester her with political attacks or summoning motions, I believe we are not being fair to the public as many people wish to see our officials spend their energy on real work.

I have high expectations of the work of the Secretary for Justice, in particular the consumer class action that I have put forward time and again. The Law Reform Commission recommended the introduction of consumer class action a long time ago. President, I have to make it clear that I am talking about consumer class action. As some people are worried that the introduction of class action may affect our business environment, I think consumer class action should be introduced first. Regarding the work in this respect, we know that the Law Reform Commission has been holding discussions for years but little progress has been made. I request the Secretary for Justice to tell us the progress of this work as soon as possible. Everyone knows that I have advocated for years raising the maximum amount of claims handled by the Small Claims Tribunal. Now the authorities have consented to raising the amount from \$50,000 to \$75,000 in response to the aspirations of the people. But the measure is yet to be implemented. I hope the Secretary for Justice will tell us expeditiously when it will be implemented.

President, I cited these examples to tell everyone that many matters are waiting to be dealt with by the Secretary for Justice. If we continue to pester her incessantly with political attacks or summoning motions, I am afraid people of Hong Kong will suffer in the end. Hence, we must handle the summoning motions very carefully.

President, please allow me to raise a final point, which is, the same yardstick should be applied to all people. At present, a candidate running for the by-election, Paul ZIMMERMAN, is also involved in an UBWs controversy, and his wife, a government town planner, is also involved. Some have questioned why the Buildings Department has never followed up his UBWs in the past 10 years, but only dealt with it after he decided to run for the by-election.

President, we have many questions concerning Paul ZIMMERMAN's situation ...

PRESIDENT (in Cantonese): Mr Holden CHOW, please hold on. I wish to remind Members again that they should avoid, as far as possible, mentioning elections and candidates in their speech, lest such remarks may be seen as affecting the election results. Although the Rules of Procedure has no such requirements, as Members of the Legislative Council, we all wish to see the election being held in a fair and impartial manner. I hope Members will take note of that.

MR HOLDEN CHOW (in Cantonese): Alright, I get it, President.

President, I will go back to the subject. I mainly wanted to say that the same yardstick should be applied to all people. To be honest, I have many questions concerning Mr ZIMMERMAN's situation but I do not think we should summon him, his wife or staff of Buildings Department to answer questions.

Since the same yardstick should be applied to all people, we should not be overly engaged in making political attacks or proposing summoning motions. I hope that the Legislative Council can return to the right track so that we can seriously deal with the livelihood issues on the agenda. As for the Secretary for Justice, we can give her advice. We hope that she has learned a lesson from this incident and will sharpen her political sensitivity and become more mature. We also hope that she will commit to the work of the Secretary for Justice and deal with various livelihood issues and other matters that should be dealt with by the Secretary for Justice.

President, I so submit.

MR HO KAI-MING (in Cantonese): President, I believe Members should be aware that today's motion is nothing more than a political show. As a novice in politics, I have no idea how a "political show" can be better staged. And yet, having lived for 30 years, I follow only one principle, that is, do not be strict with others but lenient towards oneself. I absolutely cannot accept double standard, which means applying two different yardsticks on the same thing or person. This is unacceptable to me.

President, it is indeed very difficult for an ordinary person to define a clear moral principle, and this is why there are schools of philosophy in colleges. For thousands of years, there have been endless discussions on this question and it is almost impossible for anyone to figure out his own moral principle. One possible way is to situate a certain issue or an argument in different cases, which may help define the principle. As mentioned by Mr Holden CHOW just now, we can thus see if a person is applying the same yardstick on different people.

Oriental Daily News just published a commentary article, which I guess Members have already read. If the name of the person being commented on is covered, we should be able to tell if the same yardstick has been applied to different persons. According to the commentary article, (I quote) "As pointed out by Kenneth LEUNG from the accountancy sector, it is believed that someone has already informed his/her team of the issue relating to the unauthorized building works ("UBWs") and he/she is thus considered to have disclosed all UBWs on his/her own initiative in a frank and open manner, and this kind of problem is inevitable in houses." (End of quote) Kenneth LEUNG is not present at the meeting and I do not know how he is going to vote later on. If a particular yardstick is used to measure the Southern District Council member, the same one should be used to measure the Secretary for Justice. Only in this way can the remark be plausible and convincing.

Mr LAM Cheuk-ting then went on to say that the person who was involved in the erection of unauthorized signboards had to apologize as well, because he held that integrity and accountability were of paramount importance. I am not sure if that person has been open and frank as he said there were a large number of UBWs in Hong Kong and many people adopted a delaying tactic, which was not worth encouraging. Has Mr LAM Cheuk-ting adopted the same yardstick in assessing someone's unauthorized signboards and another person's UBWs found

in his/her residence? How is he going to vote later on? Members of the public must see clearly for themselves and determine whether he has used the same yardstick to measure himself and other people.

Furthermore, the mover of this summoning motion Mr Charles Peter MOK said he has yet to study the explanation given by someone with regard to his/her UBWs and thus did not know his/her arguments. He only noticed that the person concerned has already given an account and apologized, and so he has nothing to add. The fact is, if he has nothing to add, should we discuss this motion today? While he has nothing to add on a certain person's UBWs, he has to summon another person to this Council, is this a consistent approach by adopting the same yardstick?

Mr CHU Hoi-dick, on the other hand, pointed out that many people have UBWs, but the key is integrity and it is of paramount importance that no one should lie. Be it the Southern District Council member or the Secretary for Justice, have we adopted the same yardstick on them? I think Mr CHU may need to elaborate on this later on. What actually is his yardstick?

I believe as public officers, it is only reasonable to measure other people using the same yardstick. While Members can comment on anything in this Chamber, we can only convince members of the public by using the same yardstick. Only in so doing will we be regarded as a reasonable Member who can convince members of the public. What is even worse is, a Southern District Council member is now running in an election after he has been imposed an encumbrance for 10 years for UBWs. Is this case more serious or the one where a public officer tackled her UBWs problem only after she has hastily assumed office? I think members of the public have an answer in their heart.

There is nonetheless another question that the Secretary for Justice should pay particular attention to. Why is it that no action has been taken for as long as 10 years after an encumbrance was imposed? The Secretary for Justice should note this down and then urge the relevant department to take action. Why did the relevant department turn a blind eye to the fact that an encumbrance has been imposed on a public officer for 10 years? Is the encumbrance being imposed still valid today? Secretary, if you ... The trade union of the Buildings Department once put forward a request to the Development Bureau for an increase in manpower to follow up on the encumbrances, but the Bureau has been

stalling on the issue. If the Administration adopts the same yardstick, it should expeditiously increase the manpower of the Buildings Department to deal with the encumbrances instead of allowing similar problems to recur.

In my view, regardless of whether the person concerned is a public officer, a Southern District Council member or a member of the public, government departments should use the same yardstick for assessment. Therefore, with regard to the problem of UBWs, especially UBWs that do not pose immediate safety hazards, it is only appropriate for the relevant government departments to, having regard to the grave public concern, expeditiously step up their efforts to address the problem.

President, as I do not think Mr Charles Peter MOK has applied the same yardstick to all public officers, I therefore do not support this summoning motion. Thank you, President.

MR TOMMY CHEUNG (in Cantonese): President, regarding the unauthorized building works ("UBWs") in the property of the new Secretary for Justice Teresa CHENG, she has time and again explained to the public and the Legislative Council. Last Monday (29 January), she attended the special meeting of the Panel on Administration of Justice and Legal Services and though the issue of UBWs was not on the agenda of the meeting, she was willing to answer Members' questions on this issue.

The Liberal Party understands the public's concern about the matter but the Liberal Party does not support Mr Charles Peter MOK's motion to summon the Secretary for Justice to attend before the Council to testify and to produce all relevant papers, books, records or documents.

First, as we all know, the problem of UBWs is very common in Hong Kong, and the Government has always taken a pragmatic and risk-based approach. Under normal circumstances, if UBWs do not pose an obvious and immediate threat to people's lives and assets, the Buildings Department will issue a statutory warning notice and removal order. As long as the owner follows the Buildings Department's instructions and deals with the UBWs voluntarily, the issue is considered to be settled and no charges will be made. This is a standard procedure acceptable to all.

Earlier, Secretary for Justice Teresa CHENG has pledged to follow the Buildings Department's instructions to rectify the problem concerning the UBWs, and she will not interfere with any legal proceedings thus arisen. It is obvious that her remedies comply with the procedure and established practices. We do not see why we should request the Government to depart from the established policy just because the Secretary for Justice is involved. Of course, the public have in general higher expectations of senior officials in terms of their moral standards and hence people wonder if she breached the law knowingly and they also query her integrity. Moreover, the Secretary for Justice has time and again handled the incident in a manner like "squeezing toothpaste out of a tube", which was far from satisfactory and gave the public a very bad impression. Secretary for Justice Teresa CHENG also said repeatedly that her hectic work schedule, having to fly to different places all the time, had left her with no time to take care of household affairs, resulting in such negligence. However, she also understood that she could not use her hectic work schedule as an excuse and thus she repeatedly apologized to the public. Concerning her botched approach, she admitted that there was room for improvement.

It is true that the new Secretary for Justice had not properly "purified" before taking office, which was rather disappointing. She must enhance her political sensitivity and alertness in the days to come. In future, the SAR Government should also carry out thorough "purification" before each accountability official assumes office. It should remind them that they must take proper care of similar problems before assuming office, so as to avoid making the same mistake.

As far as the latest development is concerned, I do not consider there is an integrity problem. I do not think summoning the Secretary for Justice to attend before the Legislative Council to explain the case will enable us to get new information, or shed more light on the incident. The question is, should the Secretary for Justice's UBWs incident obliterate her past contribution to society and her professional competency? The Liberal Party thinks that the right candidate for the post of Secretary for Justice is hard to come by and Teresa CHENG is one such candidate. Since she has sincerely apologized and she was entrusted with this mission at a critical juncture, we should give her a chance. One should understand that the Secretary for Justice has to shoulder heavy responsibilities and the most important duty is to uphold the rule of law in Hong Kong. Currently, the Government has to handle a number of important tasks which the community is gravely concerned about, and the support of the

Department of Justice is required. At this juncture, Teresa CHENG should talk less and do more. Making verbose remarks serves no purpose. At present, her most pressing task is to remove all UBWs to settle this row, so that non-establishment Members will have one less excuse to stall the Council procedure and she can have more time to handle the more important work at hand.

As a matter of fact, recently pan-democratic colleagues have been invoking Article 73(5) and (10) of the Basic Law incessantly to summon various officials, which has obviously disrupted the established Council proceedings. Their only purpose is to jump the queue to first discuss issues that they consider important, that are beneficial to them and at the same time that deal a blow to the Government's credibility. As a result, law-abiding colleagues who want to do real work, like my fellow party members, Mr Frankie YICK and Mr SHIU Ka-fai, are still waiting to have their motions proposed last year to be placed on the agenda. Is this fair to them?

President, under the current tense political atmosphere, Secretary for Justice Teresa CHENG has, after thorough consideration, still chosen to give up her private practice and high remunerations—I have reasons to believe the salary offered by the Government is much lower than what she made from her own company—and enter this "hot kitchen" to serve the public. I appreciate her determination, and I hope that the Secretary for Justice has learned from this experience and increased her alertness and political sensitivity, so that she will carefully handle her future work in safeguarding the rule of law in Hong Kong and further improving our legal system. The public and the Legislative Council should use these as a yardstick to evaluate her work in future.

President, the Liberal Party opposes the motion moved by Mr Charles Peter MOK to summon the Secretary for Justice.

I so submit.

MR PAUL TSE (in Cantonese): President, at the beginning of the unauthorized building works ("UBWs") incident, I also made scathing criticisms of the acts and background of Secretary for Justice Teresa CHENG, questioning whether she was fit to perform the duties of the Secretary for Justice. I still think that there are certain problems surrounding the UBWs incident. As to whether "it is better to

have a short pain than a long one", how the matter is going to develop, or whether she will end up like Paul CHAN or MAK Chai-kwong, I would say it depends on whether fortune will smile on Secretary for Justice Teresa CHENG and it remains to be seen. But then, as regards the summoning motion moved by Mr Charles Peter MOK, I have serious reservations about it. I consider it very problematic with respect to timing, the person concerned, and its subject.

First of all, regarding the person concerned, this motion seeks to summon the Secretary for Justice to testify about whether she is still fit for the position of Secretary for Justice. If a decision is really to be made on this, I think it can only be made by the Chief Executive alone or, as Mr Abraham SHEK said earlier, by the Standing Committee of the National People's Congress ("NPCSC"), which accepted the Chief Executive's recommendation and made the final appointment. Admittedly, as for the most important issues that the Secretary for Justice has to handle at present, including the co-location arrangement, the National Anthem Law, the enactment of legislation to implement Article 23 of the Basic Law, and many controversial criminal prosecutions, Teresa CHENG may not have enough credibility to handle these issues. However, as to whether the context behind the incident involves other more significant national policies on, say, the role played by Hong Kong in the Belt and Road Initiative, our future role as an arbitration centre in the international arena and even other greater developments, as well as whether Teresa CHENG is competent, these may have to be decided by the Chief Executive, NPCSC and other relevant departments as I mentioned just now. The Secretary for Justice herself is not a suitable person to answer these questions.

President, as to the question of whether the process of the integrity check involved any concealment, I am afraid it should not be answered by the Secretary for Justice. If we are to investigate whether the integrity checking system itself is appropriate, whether it is inadequate and whether it needs to be improved, I am afraid we should summon the Secretary for the Civil Service to come here for an inquiry. If we are to investigate what procedures were involved in the integrity check and whether there was any omission or concealment in the process, I am afraid we should also summon the Secretary for the Civil Service. If this case is to be investigated, there is a more suitable department dedicated to carrying out such investigations, and it should not be up to the Legislative Council to hold a public hearing arbitrarily. Therefore, I think this motion is targeted at the wrong person.

When it comes to timing, this motion seeks to summon the Secretary for Justice to attend before the Council on 28 February to address the issues. Under the Council's current arrangement, 28 February appears to be the date on which the Financial Secretary is to present the Budget for First Reading in the Council. Of course, the relevant Agenda has yet to be finalized, but as things stand, the most important item on the Agenda is the presentation of the Budget. In the circumstances, it may not be most appropriate for us to waste time dealing with this motion. Besides, if we are unable to vote on this motion today, I am afraid 28 February is definitely not a suitable date.

President, this motion calls for a probe into a number of issues, including the UBWs in Teresa CHENG's residence, the process of her purchasing the property concerned, the company or companies under her name, and the public works-related business of the company under her husband's name. President, I am afraid these several issues are totally irrelevant to the Government's work, as they are related to problems that occurred before the Secretary for Justice took office. Article 73(5) of the Basic Law merely empowers Members to look into and raise questions on the Government's work. Regarding the acts and personal conduct of the Chief Executive, a Director of Bureau or any civil servant before he or she joins the Government, I am afraid the Legislative Council has no power or obligation to deal with them, nor can it invoke Article 73(5) to deal with them. Therefore, the provisions cited in this motion are also wrong.

What is more terrible is the proposal to look into all other related matters. Some time ago, there was a press report whose contents were, of course, pure speculations or groundless conjectures, querying whether the Secretary for Justice decided not to disqualify YIU Chung-yim from standing for election because she wanted to please certain members of the community or the non-establishment camp, in exchange for their leniency towards her problems. This may also be alleged to be connected with the UBWs incident and the Secretary for Justice's relevant acts. So, should we also investigate whether there was anything wrong with such a decision made by the Secretary for Justice?

In theory, if this summoning motion is passed, Members may demand an investigation in this respect, and may summon the person concerned to testify and produce documents. Should this happen, the scope of the investigation will be extremely wide. Furthermore, if we are to probe into the public works-related business of her husband's company, we certainly will not only have to summon her, the Secretary for Justice, but also have to demand documents from her. As

one can imagine, a probe into the public works-related matters of the company under her husband's name may entail looking into a large number of projects and going through thousands of documents. Just taking into account these technical problems, I am afraid this motion simply should not be considered and passed.

President, as we always know, the general principle of invoking provisions conferring powers and privileges on the Council is that it is only when there is a major issue of public concern or a major blunder on the part of the Government, and when the Government is unwilling to give or fails to fully cooperate in giving replies to questions, that the Council has the right to, or should, properly use its powers and privileges to handle the matter as a last resort. By no means should the Council use public funds, its time and resources, or even such tight resources as the Secretariat's manpower, to arbitrarily set up a committee or even seek to invoke provisions conferring powers and privileges on the Council to conduct an investigation.

Therefore, I simply do not understand why our Honourable colleagues have recently kept proposing motions under these provisions to summon different heads of departments or Directors of Bureaux of the Government to attend before the Council to testify, explain and produce documents regarding various issues. If this is what is going to happen, we should not call this Council the Legislative Council and might as well call it "the Investigation Council" or "the Persecution Council", as we will be spending our policy discussion time on investigations, or even on arguing with each other in a disorderly manner; worse still, we will not be able to conduct any truly effective investigations similar to those conducted by professional bodies which uphold high standards and apply stringent investigation rules, such as the Court or an arbitration commission. In view of this, I cannot support this motion.

President, I must point out that a number of Honourable colleagues earlier advanced an argument which I would describe as "the blue blood theory" or "the elite theory", saying that the Secretary for Justice had made a huge sacrifice as she, being an elite member of the legal profession, could have made a lot of money, and that she should not have gone into public office. Another argument is that since she has perhaps never worked as a civil servant in her life, her personal conduct and acts of the past certainly may not be as clean and white as those of the so-called career civil servants in public service.

I am afraid I cannot agree with these arguments. No one in public office should have a split personality with two characters: one before and the other after taking office. If one's character is good, it is good; if it is bad, it is bad. Even if it is bad, explanations can be given as to why it is bad so that it can be rectified. We should not draw a hard and fast line, saying that we should not investigate any acts done by a person before he or she joins the Government. I am afraid I cannot accept this point.

As for the argument that the Secretary for Justice could have made a lot of money, it cheapens the Council and I find it unacceptable. To go into public office is to serve the community. Some people are willing to make sacrifices, but then we must not use a lenient yardstick to assess their cases because of that; otherwise, does it mean that we should cosset those Members who are capable of making a lot of money and have bright prospects but are willing to sacrifice their time to work for the Council, such as barrister Alvin YEUNG and "the pilot", who are present? I hope everyone will think about the rationale and principle behind such an argument. If someone is really incompetent, we can criticize him or her, but our criticisms must be based on facts and we certainly should not hinder the Government's implementation of policies. That said, it is important to criticize at the right time to give the person concerned a sharp warning.

Moreover, if any Honourable colleague is to propose a similar motion, I hope he or she will carefully think about the relevant principle and whether the Council should do so, as well as the content and wording of the motion. He or she should not thoughtlessly do it for the sake of doing it, as this would worsen the public's perception and impression of the overall standard of the Council.

President, despite all sorts of difficulties, we have passed the amendments to the Rules of Procedure in the hope that the Council can get back on the right track. As I see it, the atmosphere in the Council has become relatively relaxed over the past few weeks. I wonder if this has anything to do with the election or due to other reasons, but generally speaking, people have started to feel that the Council has indeed improved. I do not want to see the Council being dragged down by any political strife among Members again. Members should not turn the Council from a place for discussing principles, reasons and rules into a venue purely used for political struggles, let alone use the Council's time arbitrarily to propose summoning motions under provisions conferring powers and privileges on the Council, or else we will be wasting time endlessly. After all, Members

should not frequently propose such motions to fish for evidence and information against anyone, or do so without actually considering the documents, time and evidence involved. Such action would, in my view, render the Council unable to operate normally.

President, all in all, taking into account the general principle of invoking provisions conferring powers and privileges on the Council, or the contents of the motion in question (including the subject matter, the person to be summoned, the matters to be investigated and the documents to be produced), I think the wording of the motion is inappropriate.

Incidentally, President, if there are better justifications for taking any action in respect of this incident, I believe there are other better occasions for Members to follow it up, otherwise I hope this whole thing can come to an end, so that the Secretary for Justice can genuinely serve Hong Kong.

At the seminar on the Belt and Road Initiative held in Beijing by the Hong Kong Government last weekend, we saw the active participation of members of various sectors, as well as the support given by our state leaders to Hong Kong. Today, I also spent quite some time attending an expert forum on the Belt and Road Initiative organized by The Law Society of Hong Kong. The whole world is concerned about what role Hong Kong can play in the Belt and Road Initiative. I hope the Secretary for Justice will, whether to ask for forgiveness or to truly showcase the best of her ability, make contributions in this regard, so that Hong Kong can move further ahead, so that Hong Kong's status as an international arbitration hub can be manifested, and the significant national policy of the Belt and Road Initiative can be smoothly implemented.

Thank you, President.

IR DR LO WAI-KWOK (in Cantonese): President, I rise to say that my fellow colleagues from the Business and Professionals Alliance for Hong Kong ("BPA") and I oppose the motion moved by Mr Charles Peter MOK under Article 73(5) and (10) of the Basic Law to summon the Secretary for Justice, Ms Teresa CHENG.

President, over the past two months, my Honourable colleagues from the non-establishment camp ...

(Some Members talked loudly in their seats)

PRESIDENT (in Cantonese): Will Members please stop talking with each other in their seats.

IR DR LO WAI-KWOK (in Cantonese): ... have proposed many summoning motions under Article 73 of the Basic Law. To them, this type of summoning motion is a magic formula that can bring multiple wins. It is a weapon rarely employed by this Council or even the former Council. Not only can they use such motions to burn the Council's time, but they can also use the subjects of the motions to put on big "political shows". This being the case, it can really be said that they can score an overall victory. Still fresh in my memory is the motion moved by Mr Kenneth LEUNG under Article 73 of the Basic Law to summon the Commissioner of Police, Mr Stephen LO, to attend before this Council to explain and elucidate the impact of the use of a water cannon on the human body. This is indeed laughable. Even if Mr LEUNG considered it a question worth asking, it should only count as an oral question or a written question that this Council generally deals with, and yet he made an issue of it. In the circumstances, we could not but let him burn time.

Today, Mr CHU Hoi-dick suddenly withdrew his summoning motion relating to the Hong Kong-Zhuhai-Macao Bridge, and, as a result, this Council has to deal earlier with the present motion on summoning Secretary for Justice Teresa CHENG. The purposes of this motion are very obvious. It, likewise, seeks to burn the Council's time and, more importantly, put on a "political show". It even attempts to use this Council as a platform to undermine the Government's prestige in governance and humiliate public officers and the Secretary for Justice. It is certain that I absolutely will not support such a motion.

President, I have to declare that I am acquainted with Secretary for Justice Teresa CHENG, but we are not close friends. She is an outstanding professional in her sector. I recall that I once invited her on behalf of the engineering sector to give a speech on the Basic Law at a forum. I was impressed by her excellent performance on that occasion. Her arguments were very clear, and she was very

familiar with the Basic Law. Demystifying the subject in simple language, she persuaded others with reasons and explained various aspects of the Basic Law to which we should pay attention. I also have to declare that I know her husband, Mr Otto POON. I know Mr POON, or Ir Dr POON, because both he and I are former Presidents of the Hong Kong Institution of Engineers, and Mr POON is my senior in the profession, but I am not one of his intimate friends who have visited his home. So I am not particularly qualified to make excuses for or argue in defence of Ms Teresa CHENG with respect to her unauthorized building works ("UBWs") problem, and this is not something I need to do or should do.

My only consideration is the genuine aspiration of the public. The prime concern of the public is not how she deals with the UBWs in her home, but how she is going to take forward her work and perform her duties in the future in her important capacity as the Secretary for Justice. The Department of Justice will soon need to deal with a number of important legislative exercises, including the local legislative exercises for the co-location arrangement and the National Flag Law—no, it should be the National Anthem Law; the local legislative exercise for the National Flag Law was completed long ago—in addition to many other tasks. As an accountability official and one of the three Secretaries of Departments in Hong Kong, the Secretary for Justice is a very important post. Many members of the public are eager to see whether Ms Teresa CHENG can really become a competent Secretary for Justice by virtue of her professional knowledge after joining the Government. I do not have a crystal ball to predict whether she will do her job well. I am just saying that this is what the public is concerned about.

As for the proposal to summon the Secretary for Justice to this Chamber for questioning or investigation regarding how her UBWs problem should be handled and other matters such as the public works projects undertaken by Mr POON's company, I very much agree with several Members who said earlier that this is not something the Legislative Council should do. If it is said that there may be cases in which their family is involved in public works contracts, it is only natural that such cases should be handled under the declaration system of the Executive Council. This is not something the Legislative Council needs to take care of at the moment.

President, everyone is familiar with the first few sentences of the *Li Yun Da Tong* section of the *Record of Rites*: "When the Grand course was pursued, a public and common spirit ruled all under the sky; they chose men of talents, virtue, and ability; their words were sincere, and what they cultivated was

harmony."² These sentences are very easy to understand; we all know what they mean. In appointing Ms Teresa CHENG as the Secretary for Justice, the Chief Executive, Mrs Carrie LAM, precisely aimed to choose a truly virtuous and able person to serve the public and perform the important duties of the Secretary for Justice. Of course, it remains to be seen whether she is really capable of doing what she ought to do and meeting public expectations. The sentence following "they chose men of talents, virtue, and ability" is "their words were sincere, and what they cultivated was harmony". We often forget this part. What does it mean? It means that everyone should pursue sincerity and harmony. Only in a sincere and harmonious environment or atmosphere can virtuous people devote themselves to working for us.

President, from my daily observation, I would say Mr Charles Peter MOK is a rather calm Member in normal situations, but for reasons unknown, there were several scenes of utter exasperation on his part today. His first instance of exasperation was that he alleged before the microphones that pro-establishment Members were filibustering. President, at this meeting we have dealt with three government bills which had their Second Reading debates resumed. I was the Chairman of the Bills Committees on two of the bills, one being the Waterworks (Amendment) Bill 2017 and the other being the Road Tunnels (Government) (Amendment) Bill 2017, which is concerned with Tate's Cairn Tunnel. As I was the Chairman of the Bills Committees on two of the three bills, I did listen very attentively to the speeches given by my Honourable colleagues, including both pro-establishment and non-establishment Members. Basically, all their speeches had substance.

I find it very strange that Mr MOK accused pro-establishment Members of filibustering. As far as this meeting is concerned, I am very pleased that we did not hear the summoning bell ring—in fact, we have seldom heard the summoning bell ring recently—so that Members were able to debate and raise questions about the three bills, which had their Second Reading debates resumed, in a relatively normal atmosphere. The bill that Members spent a longer time arguing about is the Dutiable Commodities (Amendment) Bill 2017, which regulates the sale of alcohol. One of the amendments tabled by the Government to this bill proposed to allow inspectors to enter and search domestic premises. While this proposal generated an intense debate, it was still a normal debate. Later on, as Dr KWOK

² <<https://ctext.org/liji/li-yun>>

Ka-ki made some impertinent remarks, many pro-establishment Members spoke to rebut what he said. They used quite a lot of the Council's time in doing so, but they were not filibustering.

Mr MOK's second instance of exasperation was that he queried why the Chairman of the House Committee, when acting as the Deputy President, allowed Mrs Regina IP to speak despite her lateness in pressing the "Request to speak" button. It is true that Mrs Regina IP was late in pressing the button, but this kind of thing does happen from time to time.

Mr MOK's third instance of exasperation was that he challenged the Deputy President's right to speak. When the Deputy President, Ms Starry LEE, returned to her Member's seat, she naturally resumed her role as a Member and could speak on the motion. What was wrong with that? But it does not matter. It was a special situation that occurred in this motion debate today, and I am just briefly expressing my feelings.

President, as a few Honourable colleagues said earlier, if we are to adopt a yardstick, it should be universally applicable. When the media revealed that a person from the non-establishment camp running in the by-election had UBWs in his home, non-establishment Members said that he should be given a chance to deal with his UBWs problem on his own, and that they hoped that a person with commitment and ability could join the legislature to monitor the Government and serve the public. If this yardstick is to be adopted, should we apply the same yardstick to a person aspiring to join the accountability team to serve the public? I believe the answer to this question is clear to the public.

In sum, I think the public is most concerned about how the Secretary for Justice is going to take forward her work, and whether she will be competent and capable of properly fulfilling her important role as one of the three Secretaries of Departments in the future.

I very much hope that Members will really stop filibustering by means of moving summoning motions under Article 73 of the Basic Law. President, in my hand is a script, which is a written speech on my amendment to the motion on "Establishing a comprehensive 're-industrialization' policy regime". The date on the script has been changed over and over again. That motion was proposed by Mr Jimmy NG, and I proposed an amendment to it and prepared a written speech on the amendment. However, after each meeting in the past two months, my

assistant invariably had to change the date on the script for me. I still have not had a chance to speak on that motion, which is very important to Hong Kong.

Therefore, I would like to advise non-establishment Members to stop using the grey area in the Rules of Procedure to put on such unnecessary "political shows". I believe the public is already fed up with this and absolutely does not want to see the Legislative Council keep burning its valuable time. We still have many important agenda items to deal with. The co-location arrangement is vital to the operation of the Hong Kong section of the Express Rail Link, and is an important item of business to be dealt with by the Legislative Council. The subjects of many Members' motions are of great importance to the economy or people's livelihood in Hong Kong. I find it extremely regrettable and lamentable that we have yet to be able to discuss these important motions in the Chamber.

As regards the present motion, let me reiterate that my fellow colleagues from BPA and I are strongly opposed to it. We absolutely disagree with the proposal to invoke Article 73(5) and (10) of the Basic Law to summon Secretary for Justice Teresa CHENG.

President, I so submit.

MR CHEUNG KWOK-KWAN (in Cantonese): President, I speak in opposition to the motion moved by Mr Charles Peter MOK to summon the Secretary for Justice.

The Secretary for Justice has very important responsibilities, which I think we are well aware of, and it is not easy to find someone eligible to fill the post. First of all, this person must command respect in the legal sector, but people with high status and of a high calibre in the legal sector are very often in their peak of their career with the highest earning capacity. It is not easy for such a person to give up his career to join the Government and take up the post of Secretary for Justice. Besides, at this moment of time, it is absolutely not easy to take up the work of the Secretary for Justice. Why? As many colleagues have mentioned, the Government has to, within this year, enact local legislation on the co-location arrangement and the National Anthem Law, and there are many other arduous tasks ahead. The Secretary for Justice is right at the centre of a storm.

Since her assumption of office, the Secretary for Justice has been plagued by the unauthorized building works ("UBWs") in her residence. I believe she has never anticipated such a situation. Frankly speaking, under the present legislation, it is definitely not right to have UBWs. However, UBWs are so common in Hong Kong that if the Buildings Department is to remove all UBWs, it may take 60 years and still cannot finish the job. It is very likely that among our neighbours, relatives or friends, some have UBWs in their homes too. If those who have UBWs in their homes are ordinary people, I do not think we would regard them as heinous criminals. That is the reality in Hong Kong today.

For the politicians in Hong Kong, however, the UBWs problem is no trivial matter. For the ordinary people, it is just an insignificant matter, but in the political arena, it may be cancer cells that ruin one's political life. Looking back at Hong Kong's history, not only the Secretary for Justice has UBWs, in the past, many former Legislative Council Members, members of the Judiciary, senior officials and well-known movie stars in Hong Kong also had UBWs in their homes. This issue had really caused jitters in different sectors. Hence, the Secretary for Justice should have been alert to this issue before assumption of office. She should understand that when she was in private practice in the legal sector, certain Legislative Council Members might have very good working relationship with her, but now her position has changed. Given that she is now a politically appointed Secretary of Department, those who were once on good or friendly terms with her might now show no leniency to her.

Undeniably, since the occurrence of the incident, as many Members have said, the Secretary for Justice's handling of the matter has been far from satisfactory. Her failure in crisis management has also caused harm to her personally. Of course, we have noticed that she has done the best she can to make amends, including making public explanations and apologies on various occasions within and without the Legislative Council, and appointing authorized persons to help her submit immediate applications to rectify the UBWs as soon as possible. It can be said that we have asked all questions that should be asked, and the Secretary for Justice has answered all questions that should be answered. Mr Charles Peter MOK now invoked Article 73 of the Basic Law to summon the Secretary for Justice to attend before this Council, I believe Members will only ask the same questions once again, and the Secretary for Justice will only repeat

the same answers given previously. This is not a matter of what further information can be obtained, but whether the people believe her words or not.

President, besides, I think Mr Charles Peter MOK should treat this problem more impartially. Why do I say so? As some Members have already pointed out, other than the Secretary for Justice, it has been reported that many people in the political arena, including Ms Claudia MO and Mr LAM Cheuk-ting, also have UBWs in their residence. Recently, it was reported in the press that Jimmy LAI, who has very close relationship with the pan-democratic Members, was suspected of building a new balcony in his luxury home in Ho Man Tin to replace the unauthorized structure removed earlier. The newly building UBWs is even larger in scale. But I dare say that the pan-democratic Members will not summon Jimmy LAI to attend before the Council. This clearly shows that in handling the case of UBWs, our pan-democratic colleagues apply different standards when treating different people in the political arena.

Apart from Jimmy LAI and Mr LAM Cheuk-ting, another person I have mentioned just now, but I will not say his name, a candidate for a constituency closely related to UBWs ... President, I hope this will not be a point of order ... Everyone knows there are UBWs in his home and he does not deny; but pan-democratic colleagues have turned a blind eye to that. May I ask if this person is elected to the Legislative Council, will Mr Charles Peter MOK request to summon him to give an explanation and produce documents, telling us about the locations of his UBWs and how he will remove them?

I hope that pan-democratic Members will apply the same standard when dealing with this problem. I am worried whether some Members will insist on supporting that person indiscriminately after he is elected to the Legislative Council. If so, will Mr Charles Peter MOK's attitude of either friend or foe being too obvious and outrageous?

Over the past few weeks, pan-democratic Members have proposed a series of motions under Article 73 of the Basic Law to summon the Secretary for Development, the Secretary for Transport and Housing, the Commissioner of Police and now the Secretary for Justice. Before discussing this motion today, there was a motion to summon another Director of Bureau in respect of the Hong Kong-Zhuhai-Macao Bridge. Many of these summoning motions can be considered trivial, making a mountain out of a molehill. A case in point is that

they said earlier that they wished to invoke the Basic Law to summon the Secretary for Justice to attend before the Council to give her opinion on the enactment of legislation on freedom of information.

As I said in the past, it has been indicated in many documents and files that the Government had given an account on legislating for freedom of information. The Legislative Council has also put in place various mechanisms, including Panels, oral questions, written questions and also monthly Question Time with the Chief Executive. But they discard all these opportunities and resort to summoning the Secretary for Justice by invoking Article 73 of the Basic Law to ask her opinion on a certain issue and whether legislation should be enacted. Is it appropriate to do so? Are they making a mountain out of a molehill and abusing Article 73 of the Basic Law?

In the past few weeks, opposition Members have proposed numerous motions to summon various Secretaries of Departments and Directors of Bureaux. Before this motion, Mr CHU Hoi-dick had proposed another summoning motion but later he withdrew it arbitrarily before the discussion was held. Does it mean that these motions are either meaningless or non-urgent? Does it mean that these summoning motions are only the means to achieve their political ends? I will not speculate on their motives but why did he seriously propose a summoning motion under Article 73 of the Basic Law and then arbitrarily withdrew it? What was his objective? Perhaps this is a mechanism under which Members can add or delete one or two motions at any time they like. It turns out that there is an adjustment mechanism encompassed in the Rules of Procedure.

I hope that pan-democratic Members will stop proposing such meaningless summoning motions and stop wasting the time of the Legislative Council. As some Members have said, we have not discussed Members' motions for a long time. We must apologize to Mr Jimmy NG for we are still unable to discuss his motion on "re-industrialization" after such a long time. The word "re-industrialization" has lingered in my mind for a long time but we still do not have the opportunity to hear from Mr Jimmy NG the specific contents. I hope that before the end of this legislative session, we will have the chance to hear Mr Jimmy NG speak on the motion on "re-industrialization".

President, I so submit.

PRESIDENT (in Cantonese): The Council will not be able to finish dealing with this motion before 8 o'clock tonight. I would like to tender my early Chinese New Year wishes to you. May you all have good health and may all your wishes come true.

(Mr Charles Peter MOK indicated a wish to raise a point)

PRESIDENT (in Cantonese): Mr Charles Peter MOK, what is your point?

MR CHARLES PETER MOK (in Cantonese): President, I wish to raise a point of order. As you may know, if the motion is not put to vote today, we can no longer vote on it. Is there any way that we can vote on the motion? Then at least a conclusion can be drawn. I know that many Members are waiting for their turn to speak and they do have a right to speak. But if we are unable to vote on the motion because of their speeches, I think justice cannot be served.

PRESIDENT (in Cantonese): You may put forward this suggestion to the Committee on Rules of Procedure. If Members can vote on other motions first and then speak on them, the pro-establishment Members may also give support.

(Mr Alvin YEUNG indicated a wish to raise a point)

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

MR ALVIN YEUNG (in Cantonese): President, may I make a suggestion? I understand that over 10 colleagues are waiting for their turn to speak but some colleagues may not use up all 15 minutes. President, I wonder if you could first find out their intention and then perhaps it may be possible for Mr Charles Peter MOK to ...

PRESIDENT (in Cantonese): Over 10 Members are waiting to speak. The remaining meeting time will definitely be insufficient.

NEXT MEETING

PRESIDENT (in Cantonese): I now adjourn the Council until 11:00 am on Wednesday, 28 February 2018.

Adjourned accordingly at 7:37 pm.

Annex II

Waterworks (Amendment) Bill 2017

Committee Stage

Amendments moved by the Secretary for Development

<u>Clause</u>	<u>Amendment Proposed</u>
1	In the heading, by deleting “ and commencement ”.
1	By deleting subclause (2).
6	By adding— “(3A) Section 14— Repeal subsection (3) Substitute “(3) The construction or installation of, or alteration to, a fire service or inside service must be carried out in the prescribed way and the pipes and fittings used in the construction, installation or alteration must be of the prescribed nature, size and quality.”.”.
6(4)	By deleting the proposed section 14(4) and substituting— “(4) If subsection (3) is contravened in relation to the construction or installation of, or alteration to, a fire service or inside service, or any part of it (<i>the works</i>), each of the following persons commits an offence— (a) a licensed plumber under whose instruction and supervision the works are carried out; (b) a licensed plumber who carries out the works; (c) if a written permission for the works was granted under subsection (2A) on the application of a licensed plumber who is not a plumber described in paragraph (a) or (b)—the licensed plumber; (d) a person (other than a licensed plumber)— (i) under whose instruction and supervision the works

are carried out; and

(ii) who knows that carrying out the works would contravene subsection (3);

(e) a person (other than a licensed plumber) who—

(i) carries out the works; and

(ii) knows that carrying out the works would contravene subsection (3).”.

6(4) In the proposed section 14(5)(a) and (b)(i), by deleting “construction or installation” and substituting “works”.

6(4) In the proposed section 14(6), by adding “or (c)” after “(4)(a)”.

6(4) In the proposed section 14(6), by deleting “construction or installation (*the works*) as often as was reasonable to ensure that the works were carried out in compliance with this Ordinance” and substituting “works as often as was reasonable to ensure that the works were carried out in compliance with subsection (3)”.

7 By deleting subclause (3) and substituting—

“(3) Section 15—

Repeal subsection (2)

Substitute

“(2) A person who is not a designated person may carry out specified plumbing works if the works are—

(a) alterations or repairs to a fire service or inside service that are, in the opinion of the Water Authority, of a minor nature;

(b) construction work on a construction site carried out in accordance with section 3(2), 3A or 4 of the Construction Workers Registration Ordinance (Cap. 583); or

(c) construction work exempted from sections 3(2), 3A and 4 of that Ordinance under section 4, 7 or 8 of the Construction Workers Registration (Exemption) Regulation (Cap. 583 sub. leg. C).”.

7(4) In the proposed section 15(4), by adding “that do not fall within

subsection (2)(a), (b) or (c)” after “works”.

- 7(4) In the proposed section 15(6), by adding in alphabetical order—
- “*construction site* (建造工地) has the meaning given by section 2(1) of the Construction Workers Registration Ordinance (Cap. 583);
- construction work* (建造工作) has the meaning given by section 2(1) of the Construction Workers Registration Ordinance (Cap. 583);”.
- 8 In the heading, by deleting “**Section 15A**” and substituting “**Sections 15AA and 15A**”.
- 8 By adding—
- “15AA. Alterations or repairs not considered as of minor nature**
- For the purposes of sections 14(2) and 15(2)(a), alterations or repairs to a fire service or inside service must not be considered as of a minor nature if the alterations or repairs would, in the opinion of the Water Authority, adversely affect—
- (a) the efficiency of the fire service or inside service in providing a reliable and adequate supply of water; or
- (b) the quality of the water.”.
- 8 In the proposed section 15A(2)(a), by adding “or make video recordings” after “photographs”.
- 8 In the proposed section 15A, by adding—
- “(6A) A person is not excused from complying with a requirement under subsection (2) only on the ground that to do so might tend to incriminate the person.”.
- 9 In the proposed section 18A, by deleting “the defence” and substituting “a defence under this Part”.
- 10 In the proposed section 36A(1), by deleting “A prosecution” and substituting “Subject to subsection (1A), a prosecution”.

- 10 In the proposed section 36A, by adding—
- “(1A) For a contravention of section 14(3) in relation to the construction or installation of, or alteration to, a fire service or inside service, or any part of it (*the works*)—
- (a) if an application for inspection and approval of the fire service or inside service, or alteration, has been made under regulation 6(1)(a) or (2) of the Waterworks Regulations (Cap. 102 sub. leg. A)—no prosecution may be commenced if the contravention is discovered by, or comes to the notice of, the Water Authority after 6 years after the date of the application; or
 - (b) if the works are alterations falling within section 14(2)—no prosecution may be commenced if the contravention is discovered by, or comes to the notice of, the Water Authority after 6 years after the date of the contravention.”.
- 12 In the proposed section 40(3), by adding “, or alteration to,” after “installation of”.
- 12 In the proposed Schedule, in Part 1, in section 1, by deleting “or the installation of a meter”.
- 12 In the proposed Schedule, in Part 1, by adding—
- “3. For the installation of a meter, a person who is registered under the Construction Workers Registration Ordinance (Cap. 583) as—
- (a) a registered skilled worker for the plumber trade division;
 - (b) a registered skilled worker for the drain and pipe layer (master) trade division;
 - (c) a registered skilled worker for the fire service mechanic (master) trade division;
 - (d) a registered skilled worker for the fire service mechanical fitter trade division;
 - (e) a registered semi-skilled worker for the plumber trade division; or
 - (f) a registered semi-skilled worker for the fire service

mechanical fitter trade division.”.

- 12 In the proposed Schedule, in Part 2, in section 1, by deleting “or the installation of a meter”.
- 12 In the proposed Schedule, in Part 2, by adding—
- “3. For the installation of a meter, a person who is registered under the Construction Workers Registration Ordinance (Cap. 583) as—
- (a) a registered skilled worker (provisional) for the plumber trade division;
 - (b) a registered skilled worker (provisional) for the drain and pipe layer (master) trade division;
 - (c) a registered skilled worker (provisional) for the fire service mechanical fitter trade division;
 - (d) a registered semi-skilled worker (provisional) for the plumber trade division; or
 - (e) a registered semi-skilled worker (provisional) for the fire service mechanical fitter trade division.”.
- 14(2) In the English text, by deleting “alteration of” and substituting “alteration to”.