

立法會
Legislative Council

LC Paper No. CB(2) 1632/11-12

Ref : CB2/H/5/11

House Committee of the Legislative Council

**Minutes of the 17th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 23 March 2012**

Members present:

Hon Miriam LAU Kin-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, SBS, JP (Deputy Chairman)
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, SBS, S.B.St.J., JP
Hon LEE Cheuk-yan
Dr Hon David LI Kwok-po, GBM, GBS, JP
Dr Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Kam-lam, SBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, GBS, JP
Hon LEUNG Yiu-chung
Dr Hon Philip WONG Yu-hong, GBS
Hon WONG Yung-kan, SBS, JP
Hon LAU Kong-wah, JP
Hon LAU Wong-fat, GBM, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon Abraham SHEK Lai-him, SBS, JP
Hon LI Fung-ying, SBS, JP
Hon Tommy CHEUNG Yu-yan, SBS, JP
Hon Frederick FUNG Kin-kee, SBS, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, SBS, JP
Hon WONG Kwok-hing, MH
Hon LEE Wing-tat
Dr Hon Joseph LEE Kok-long, SBS, JP

Hon Jeffrey LAM Kin-fung, GBS, JP
Hon Andrew LEUNG Kwan-yuen, GBS, JP
Hon CHEUNG Hok-ming, GBS, JP
Hon WONG Ting-kwong, BBS, JP
Hon Ronny TONG Ka-wah, SC
Hon CHIM Pui-chung
Prof Hon Patrick LAU Sau-shing, SBS, JP
Hon KAM Nai-wai, MH
Hon Cyd HO Sau-lan
Hon Starry LEE Wai-king, JP
Dr Hon LAM Tai-fai, BBS, JP
Hon CHAN Hak-kan
Hon Paul CHAN Mo-po, MH, JP
Hon CHAN Kin-por, JP
Dr Hon Priscilla LEUNG Mei-fun, JP
Hon CHEUNG Kwok-che
Hon WONG Sing-chi
Hon WONG Kwok-kin, BBS
Hon IP Wai-ming, MH
Hon IP Kwok-him, GBS, JP
Dr Hon PAN Pey-chyou
Hon Paul TSE Wai-chun, JP
Dr Hon Samson TAM Wai-ho, JP
Hon Alan LEONG Kah-kit, SC
Hon LEUNG Kwok-hung
Hon Tanya CHAN
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man

Members absent:

Dr Hon LEUNG Ka-lau
Hon Mrs Regina IP LAU Suk-yea, GBS, JP

Clerk in attendance :

Miss Odelia LEUNG Clerk to the House Committee

Staff in attendance :

Ms Pauline NG Secretary General
Mr Jimmy MA, JP Legal Adviser

Mrs Constance LI	Assistant Secretary General 1
Mrs Justina LAM	Assistant Secretary General 3
Mrs Percy MA	Assistant Secretary General 4
Miss Kitty CHENG	Acting Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Miss Erin TSANG	Acting Principal Council Secretary (Complaints)
Mr Simon WONG	Chief Public Information Officer
Miss Betty MA	Chief Council Secretary (2)4
Ms Amy YU	Chief Council Secretary (2)6
Mr Kelvin LEE	Assistant Legal Adviser 1
Miss Carrie WONG	Assistant Legal Adviser 4
Miss Winnie LO	Assistant Legal Adviser 7
Ms Clara TAM	Assistant Legal Adviser 9
Miss Evelyn LEE	Assistant Legal Adviser 10
Miss Josephine SO	Senior Council Secretary (2)7
Ms Judy TING	Council Secretary (2)6
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)8

Action

I. Confirmation of verbatim transcript/minutes of meetings

(a) Verbatim transcript of the special meeting held on 24 February 2012

(LC Paper No. CB(2) 1448/11-12)

(b) Minutes of the 16th meeting held on 2 March 2012

(LC Paper No. CB(2) 1449/11-12)

The two sets of verbatim transcript/minutes of meetings were confirmed.

II. Matters arising

Report by the Chairman on her meeting with the Chief Secretary for Administration ("CS")

2. The Chairman said that there was nothing special to report.

III. Business arising from previous Council meetings

(a) **Legal Service Division report on bill referred to the House Committee in accordance with Rule 54(4)**

(Letter dated 20 March 2012 from the Director of Administration ("D of Adm") on "Proposed Order of Priority in the Scrutiny of Bills" (LC Paper No. CB(2) 1458/11-12(01)))

Residential Properties (First-hand Sales) Bill

(LC Paper No. LS 47/11-12)

3. The Chairman said that the Bill sought to provide a legal framework for the regulation of the sale of first-hand residential properties. The Panel on Housing had discussed the legislative proposals on 5 December 2011 and 5 January 2012. While the Panel generally supported the proposals, members noted the different views and concerns of deputations. The Legal Service Division ("LSD") was scrutinizing the legal and drafting aspects of the Bill.

4. Mr James TO considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. Dr Margaret NG, Mr James TO, Mr CHAN Kam-lam, Ms Miriam LAU, Mr Abraham SHEK, Mr LEE Wing-tat (as advised by Mr Fred LI), Ms Starry LEE, Mr WONG Kwok-kin and Mr IP Kwok-him agreed to join the Bills Committee.

The Administration's proposed order of priority in the scrutiny of Bills

5. The Chairman said that D of Adm had written to her proposing that priority be accorded to the Residential Properties (First-hand Sales) Bill should Members consider it necessary to form a Bills Committee on the Bill.

6. Members agreed to the Administration's proposed order of priority in the scrutiny of Bills.

(b) **Legal Service Division report on subsidiary legislation gazetted on 2 March 2012 and tabled in Council on 21 March 2012**

(LC Paper No. LS 42/11-12)

7. The Chairman said that only one item of subsidiary legislation, i.e. the Public Health and Municipal Services Ordinance (Civic Centres) (Amendment of Thirteenth Schedule) Order 2012 (L.N. 31), was gazetted on 2 March 2012 and tabled in the Council on 21 March 2012.

8. Members did not raise any queries on the Order.
9. The Chairman reminded Members that the deadline for amending the Order was 18 April 2012.
- (c) **Legal Service Division report on subsidiary legislation gazetted on 16 March 2012**
(LC Paper No. LS 48/11-12)
10. The Chairman said that a total of seven items of subsidiary legislation were gazetted on 16 March 2012. With the exception of three items of subsidiary legislation made under the United Nations Sanctions Ordinance ("UNSO"), which were not required to be tabled in the Council, the other four items of subsidiary legislation were tabled in the Council on 21 March 2012.
11. Regarding the three Regulations made under UNSO, which were not required to be tabled in the Council, i.e. the United Nations Sanctions (Libya) Regulation 2011 (Amendment) Regulation 2012 (L.N. 42), the United Nations Sanctions (Afghanistan) Regulation 2012 (L.N. 43) and the United Nations Sanctions (Afghanistan) Regulation (Repeal) Regulation (L.N. 44), the Chairman proposed to refer them to the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions as they came within the terms of reference of the Subcommittee. Members agreed.
12. Regarding the Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2012 (L.N. 38), the Chairman said that it sought to add four bodies to the Prevention of Bribery Ordinance (Cap. 201) ("POBO") so that they became "public bodies" and their employees (and their office-holders and members as appropriate) "public servants" for the purpose of the Ordinance. The Order would come into operation on 11 May 2012.
13. Mr James TO considered it necessary to form a subcommittee to study the Order in detail. Members agreed. Mr James TO agreed to join the subcommittee.
14. The Chairman said that the Secretariat would issue a circular to invite Members to join the proposed subcommittee. Should less than three Members join the subcommittee by the deadline for signification of membership, the subcommittee would not be formed in accordance with the House Rules ("HR"). Members noted the arrangements.

Action

15. Members did not raise any queries on the other three items of subsidiary legislation (L.N. 39 to L.N. 41).

16. The Chairman reminded Members that the deadline for amending the subsidiary legislation (except the three items of subsidiary legislation not required to be tabled in the Council) was 18 April 2012.

IV. Business for the Council meeting of 28 March 2012

(a) Tabling of papers

Report No. 15/11-12 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2) 1451/11-12 issued vide LC Paper No. CB(3)584/11-12 dated 22 March 2012)

17. The Chairman said that the Report covered two items of subsidiary legislation, including the Rating (Exemption) Order 2012 (L.N. 14) ("the Order"), the period for amendment of which would expire on 28 March 2012. Upon the expiry of the deadline, three Members had indicated intention to speak on the Order at the Council meeting of 28 March 2012. As Mr Albert CHAN had given notice to move a motion to amend the Order, should approval be given by the President for the moving of the motion, Members would have the opportunity to speak on the Order, in which case she would not move a motion in her capacity as Chairman of the House Committee to take note of the Report in relation to the Order.

18. Members noted the Report and the above arrangement.

(b) Questions

(LC Paper No. CB(3) 577/11-12)

19. The Chairman said that 20 written questions had been scheduled for the meeting.

(c) Bills - First Reading and moving of Second Reading

20. The Chairman said that no notice had been received yet.

(d) Bills - resumption of debate on Second Reading, Committee Stage and Third Reading

(i) **Appropriation Bill 2012**
(Response by the Administration)

21. The Chairman said that the Administration would respond to Members' comments on the Appropriation Bill 2012.

(ii) **Road Traffic (Amendment) (No. 2) Bill 2011**

22. The Chairman said that the Bills Committee on the above Bill had reported to the House Committee on 2 March 2012, and Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(iii) **Trade Descriptions (Amendment) Bill 2012**

23. The Chairman said that at the House Committee meeting held on 2 March 2012, Members considered it not necessary to form a Bills Committee to study the above Bill and did not raise objection to the resumption of the Second Reading debate on the Bill.

(e) **Government motion**

Proposed resolution to be moved by the Secretary for Home Affairs under the Legal Aid Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 554/11-12 dated 13 March 2012.)

(LC Paper No. LS 44/11-12)

24. The Chairman said that the proposed resolution was for seeking the approval of the Legislative Council ("LegCo") to amend Schedules 2 and 3 to the Legal Aid Ordinance (Cap. 91) to expand the scope of the Ordinary Legal Aid Scheme and the Supplementary Legal Aid Scheme. The Panel on Administration of Justice and Legal Services ("AJLS Panel") had been briefed on the legislative proposals at its meetings on 28 March and 20 December 2011. While the Panel had been supportive of the proposed expansion and its early implementation, some members considered the proposed expansion inadequate. LSD was seeking clarification from the Administration on some drafting issues.

25. Dr Margaret NG, Chairman of the AJLS Panel, said that that the legislative proposals had been thoroughly discussed by the AJLS Panel on various occasions. However, given the substantive changes involved, Members might wish to form a subcommittee to study the proposals before they came into operation. The Administration had suggested that

Action

the subcommittee, if formed, should also study the related draft amendments to subsidiary legislation concerning application fees and contribution rates to be introduced into the Council subject to the passage of the resolution, with a view to expediting the implementation of the proposed expansion of the legal aid schemes. In light of the above considerations, Dr NG proposed that a subcommittee be formed to study the proposed resolution. Members agreed. Dr Margaret NG agreed to join the subcommittee.

26. The Chairman said that the Secretariat would issue a circular to invite Members to join the proposed subcommittee. Should less than three Members join the subcommittee by the deadline for signification of membership, the subcommittee would not be formed in accordance with the relevant provisions in HR. Members noted the arrangements.

27. The Chairman further said that the Administration would be requested to withdraw its notice for moving the proposed resolution at the Council meeting of 28 March 2012.

V. Report of Bills Committees and subcommittees

(a) Report of the Bills Committee on The Hong Kong Polytechnic University (Amendment) Bill 2011
(LC Paper No. CB(2) 1454/11-12)

28. Ir Dr Raymond HO, Chairman of the Bills Committee, said that the Bills Committee had held four meetings and had met with The Hong Kong Polytechnic University ("PolyU") Staff Association and the PolyU Students' Union. The main objects of the Bill were to revise the size and composition of the PolyU Council with a view to strengthening the governance structure of the University, and define more clearly the PolyU Council's roles.

29. Ir Dr Raymond HO highlighted the major issues discussed by the Bills Committee, including the appointment of lay members to the PolyU Council; LegCo representation in the PolyU Council; the appointment and removal of the President and Deputy President of PolyU; joint venture and partnership activities of PolyU; the role of the PolyU Council in determining the terms and conditions of service of staff; and PolyU's powers in respect of fees and charges. In response to the concerns and views raised by the Bills Committee, Dr LAM Tai-fai, the Member in charge of the Bill, would move various Committee Stage amendments ("CSAs") to the Bill, including providing expressly in the Bill the policy intent of the Administration and PolyU not to appoint any public officers

Action

to the PolyU Council. The Bills Committee agreed to the proposed CSAs to be moved by Dr LAM Tai-fai and supported the resumption of the Second Reading debate on the Bill at the Council meeting of 25 April 2012.

30. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 16 April 2012.

**(b) Report of the Bills Committee on Securities and Futures
(Amendment) Bill 2011**

(LC Paper No. CB(1) 1366/11-12)

31. Mr CHAN Kam-lam, Chairman of the Bills Committee, reported that the Bills Committee had held 10 meetings and had invited the public (including relevant trade associations and professional organizations) to give views on the Bill. The objectives of the Bill were to enhance the regulatory regime for the financial market and improve investor protection by codifying certain requirements to disclose price-sensitive information ("PSI"), empowering the Securities and Futures Commission ("SFC") to institute proceedings before the Market Misconduct Tribunal ("MMT") and strengthening SFC's investor education role.

32. Mr CHAN Kam-lam said that the Bills Committee supported the policy objectives of the Bill. In respect of the proposed statutory PSI disclosure regime, the main issues deliberated by the Bills Committee included the definition of PSI; the safe harbours; the scope of "officers" of listed corporations and the liabilities of such officers. Regarding the proposal to enable SFC to institute proceedings before the MMT direct for market misconduct cases, the Bills Committee had examined the justifications for the proposal and the relevant checks and balances. As regards the proposal to establish an investor education body, the Bills Committee had discussed the appropriateness of establishing the body as a wholly owned subsidiary of SFC.

33. Mr CHAN Kam-lam further said that in response to members' concerns, SFC had included in the latest draft of the "Guidelines on Disclosure of Inside Information" more concrete guidance on the definition of PSI, the liabilities of officers, and the duties of non-executive directors, with a view to assisting listed corporations and their officers to comply with the PSI disclosure requirement. He added that in response to the views of members and the legal adviser to the Bills Committee, the Administration would propose a number of CSAs, including technical and drafting amendments. The Bills Committee agreed to the Administration's proposed CSAs and supported the resumption of the Second Reading debate on the Bill.

Action

34. The Chairman said that the Administration intended to resume the Second Reading debate on the Bill at the Council meeting of 25 April 2012. The deadline for giving notice of CSAs, if any, was Monday, 16 April 2012.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 1450/11-12)

35. The Chairman said that there were 14 Bills Committees, six subcommittees under House Committee (i.e. two subcommittees on subsidiary legislation, two subcommittees on policy issues and two subcommittees on other Council business) and eight subcommittees under Panels in action. As there were two vacant slots after two Bills Committees had reported under agenda item V above, the newly formed Bills Committee on Residential Properties (First-hand Sales) Bill and the Bills Committee on Construction Industry Legislation (Miscellaneous Amendments) Bill 2012 on the waiting list could commence work immediately.

36. The Chairman invited Members to note that the Bills Committee on Buildings Legislation (Amendment) Bill 2011 would have to work beyond three months since commencement of its work.

VII. Report of the delegation of the Panel on Food Safety and Environmental Hygiene on its duty visit to Japan in response to an invitation by the Ministry of Foreign Affairs of Japan

(LC Paper No. CB(2) 1440/11-12)

37. Mr Tommy CHEUNG, Chairman of the Panel, said that a delegation of the Panel had visited Tokyo, Kumamoto and Miyazaki, Japan from 25 to 30 September 2011 in response to an invitation by the Ministry of Foreign Affairs of Japan. The delegation comprised three members, including himself as Chairman of the Panel, Mr Fred LI and Mr WONG Yuk-man.

38. Mr Tommy CHEUNG further said that the purpose of the visit was to obtain a better understanding of the up-to-date situation in Japan after its earthquake and the Daiichi Nuclear Power Plant incident in March 2011, as well as the sanitation inspection procedures for fresh food for local consumption and export. The delegation had exchanged views with Japanese government officials and representatives of the relevant organizations on the relevant food safety measures, and had gained a

Action

deeper understanding of the effectiveness of the various measures. The delegation took the view that the measures taken by the Government of Japan following the Daiichi Nuclear Power Plant incident were in the right direction to ensure the safety of food. He referred Members to the delegation's report for details of the relevant measures taken by the Government of Japan as well as the observations and conclusions of the delegation.

VIII. Proposal of Hon LEE Cheuk-yan for invoking the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance to inquire into allegations concerning the renewal of licence of the Hong Kong Commercial Broadcasting Company Limited and the use of the Anti-riot Squad against protesters in relation to the National Security (Legislative Provisions) Bill

(Letter dated 20 March 2012 from Hon LEE Cheuk-yan to the Chairman of the House Committee (LC Paper No. CB(2) 1458/11-12(02)))

39. At the invitation of the Chairman, Mr LEE Cheuk-yan said that the allegations concerning the renewal of licence of the Hong Kong Commercial Broadcasting Company Limited ("CRHK") and the use of the Anti-riot Squad against protesters in relation to the National Security (Legislative Provisions) Bill ("NS(LP) Bill") made by Mr Henry TANG against Mr LEUNG Chun-ying were very serious, as the core values of Hong Kong were at stake. The matter also involved the integrity of candidates running in the Fourth Term Chief Executive ("CE") Election. He was concerned that should the allegations be substantiated and Mr LEUNG Chun-ying be elected as CE, the freedom highly treasured by Hong Kong people such as freedom of speech, freedom of demonstration, freedom of the press and academic freedom might be undermined. He stressed that it was incumbent upon LegCo to find out the truth, which, in his view, was of greater public interest than upholding the principle of confidentiality of the Executive Council ("ExCo") proceedings. Members belonging to the Labour Party ("Lab P") therefore proposed to seek the Council's authorization to appoint a select committee to exercise the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") to inquire into the matter. He appealed to Members to support his proposal.

40. Mr Frederick FUNG said that Mr Henry TANG had specified in his allegations the details of and the occasion on which he had heard the relevant remarks of Mr LEUNG Chun-ying. Mr LEUNG had also reportedly indicated in public his consent to the disclosure of the relevant information. Given the gravity of the allegations and the public's right to know, Mr FUNG expressed support for Mr LEE Cheuk-yan's proposal.

Action

41. Mr WONG Yuk-man said that he was one of the two programme hosts of CRHK who were forced to stop hosting their programmes in 2004. Being a person involved in the case, he was well aware of the background to the dismissal of himself and Mr Albert CHENG by CRHK and had reasons to believe that the allegation made by Mr Henry TANG against Mr LEUNG Chun-ying concerning the renewal of licence of CRHK was true. He could still recall the various persons who had contacted him and how he had responded in 2004. Mr WONG added that according to his conversations with some ExCo members at that time, including the then Chief Secretary for Administration, more than one ExCo member had mentioned about suppressing the protesters in relation to the NS(LP) Bill. While not objecting to the proposal for invoking the powers under the P&P Ordinance to inquire into the matter, he considered it a waste of time as it was doubtful whether the truth could be uncovered.

42. Mr LEUNG Yiu-chung said that he noted from media reports that the ExCo Secretariat did not prepare verbatim record of discussions at ExCo meetings and only kept discussion notes. While written evidence might not be available, Members could find out the truth by exercising the powers under the P&P Ordinance to summon the persons concerned to give oral evidence. He supported Mr LEE Cheuk-yan's proposal for appointing a select committee to conduct an inquiry to enable the public to ascertain the truth.

43. Mr Ronny TONG said that the matter involved a CE candidate making allegations against another CE candidate who had denied the allegations, and one of them must have lied. According to the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), the CE candidate who had lied might have committed the criminal offence of publishing false statements about a candidate. The matter was serious as one of them might be elected as CE. Hence, he supported the proposal for appointing a select committee to inquire into the matter. He sought advice from Legal Adviser ("LA") on whether the incumbent CE or the CE-elect could, in the light of the agreement with ExCo members on confidentiality, apply to the court for an injunction to prohibit any ExCo member from giving evidence before LegCo.

44. At the invitation of the Chairman, LA said that in determining whether to grant an application for an injunction to enforce a confidentiality agreement, the court would take into account the circumstances of each particular case having regard to the general criteria for considering such applications. There were also established legal principles for handling cases involving conflict of laws. He drew Members' attention to Article 48(11) of the Basic Law ("BL"), which

Action

empowered CE to decide, in the light of security and vital public interests, whether government officials or other personnel in charge of government affairs should testify or give evidence before LegCo or its committees.

45. Ms Emily LAU said that she strongly supported Mr LEE Cheuk-yan's proposal for appointing a select committee to conduct an inquiry into the matter involving the two CE candidates. She hoped that the select committee, if appointed, could commence work as soon as possible.

46. At the invitation of the Chairman, LA advised that according to BL 73(10), LegCo could summon, as required when exercising its powers and functions under BL 73, persons to testify or give evidence. The power to summon should be exercised by LegCo in the context of discharging its duties and not for investigating the conduct of certain persons per se.

47. Mr LEUNG Kwok-hung expressed support for Mr LEE Cheuk-yan's proposal. In his view, at least one of those two CE candidates had lied to the public during the election forum and might have committed the offence of publishing a false statement about a candidate. He considered that LegCo was duty-bound to discharge its responsibility by conducting an inquiry expeditiously, given the gravity of the matter which had called into question the integrity of the two CE candidates.

48. Ms Cyd HO said that more than 700 000 people had participated in the public procession on 1 July 2003. Despite the large number of participants, the public procession was conducted peacefully and orderly. She found it inconceivable that an ExCo member could have suggested using the Anti-riot Squad and tear gas against those peaceful protesters. In her view, the select committee, if appointed, should also look into the Administration's handling of public meetings and processions on 1 July 2003 as well as the measures planned to be taken by the Police at that time for dispersing demonstrators outside the LegCo Building should the Second Reading debate on the NS(LP) Bill be resumed under the original schedule. Since Mr LEUNG Chun-ying had indicated at an election forum that Hong Kong had the constitutional duty to implement BL 23, she considered it imperative for Members to find out whether any ExCo member had suggested the use of the Anti-riot Squad against protesters in relation to the NS(LP) Bill in July 2003. She indicated support for Mr LEE Cheuk-yan's proposal.

Action

49. Mr Paul TSE considered it important to uphold the public's right to know and enhance transparency in the Government's formulation of policies. As Hong Kong was not a sovereign country and ExCo's discussions would not touch on very sensitive issues concerning national defence and diplomacy, he considered that the requirement for confidentiality on ExCo members could be less stringent than that applied to cabinet members of sovereign countries. While he supported the conduct of a review on the principle of confidentiality of ExCo proceedings in future, he considered it inappropriate to breach the principle concerning past proceedings of ExCo, as it would undermine the integrity of the existing system which had long been adopted and would be unfair to the ExCo members who had participated in the relevant discussions.

50. Mr TAM Yiu-chung said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") had all along been of the view that the powers under the P&P Ordinance should be exercised in a very prudent manner. They did not consider it necessary to invoke such powers to inquire into the matter raised by Mr LEE Cheuk-yan. Should Mr Henry TANG, who made the allegations, be elected, he would follow up on the matter. On the other hand, should Mr LEUNG Chun-ying be elected, the latter had told the media that the relevant information would be made public. Hence, more information would be made available irrespective of which one of them was elected as the Fourth Term CE. Members belonging to DAB therefore did not see the need for LegCo to conduct an inquiry into the matter at the present stage.

51. Mr WONG Kwok-kin said that Members belonging to the Hong Kong Federation of Trade Unions ("FTU") considered that the onus rested with Mr Henry TANG to provide evidence to substantiate his allegations against Mr LEUNG Chun-ying, and LegCo should not initiate an inquiry for clarifying certain allegations whenever they arose. He also queried why Mr Henry TANG had not disclosed the matter nine years ago if significant public interests were involved. He considered it inappropriate for LegCo to conduct an inquiry into the allegations when the forthcoming CE Election was drawing near and when there appeared to be smearing activities against a particular CE candidate.

52. As there were divided views among Members, the Chairman put to vote Mr LEE Cheuk-yan's proposal for seeking the Council's authorization to appoint a select committee to inquire into allegations concerning the renewal of licence of CRHK and the use of the Anti-riot Squad against protesters in relation to the NS(LP) Bill. Mr LEE Cheuk-yan requested a division.

Action

The following Members voted in favour of the proposal:

Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr James TO, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Andrew CHENG, Mr Frederick FUNG, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr Ronny TONG, Mr KAM Nai-wai, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man.

(22 Members)

The following Members voted against the proposal:

Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr LAU Wong-fat, Mr Timothy FOK, Mr TAM Yiu-chung, Mr Tommy CHEUNG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr Andrew LEUNG, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Ms Starry LEE, Dr Hon LAM Tai-fai, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Wai-ming, Mr IP Kwok-him, Dr PAN Pey-chyou and Dr Samson TAM.

(24 Members)

The following Members abstained from voting:

Mr LI Fung-ying, Mr CHIM Pui-chung and Mr Paul TSE.

(3 Members)

53. The Chairman declared that 22 Members voted for, 24 Members voted against the proposal and three Members abstained. The proposal was not supported.

IX. Proposal of Hon IP Kwok-him for discussing under Article 79(6) of the Basic Law the handling of issues relating to Hon LEUNG Kwok-hung being sentenced to imprisonment for two months

(Letter dated 21 March 2012 from Hon IP Kwok-him to the Chairman of the House Committee (LC Paper No. CB(2) 1472/11-12(01)))

(LC Paper No. CB(2) 1472/11-12(02))

54. At the invitation of the Chairman, Mr IP Kwok-him said that he learned from media reports that Mr LEUNG Kwok-hung was convicted of a criminal offence and sentenced to two months' imprisonment on 20 March 2012. According to BL 79(6), the President should declare that a LegCo Member was no longer qualified for the office when he or she was convicted and sentenced to imprisonment for one month or more for a criminal offence committed within or outside the Hong Kong

Action

Special Administrative Region ("HKSAR") and was relieved of his or her duties as a LegCo Member by a motion passed by two-thirds of the LegCo Members present. He recalled that at the special House Committee meeting on 5 August 1998, Members discussed the case of Mr CHIM Pui-chung after he had been convicted of a criminal offence and sentenced to imprisonment. Members then decided that in order to maintain the integrity and dignity of the Council, a motion should be moved under BL 79(6) to relieve Mr CHIM of his duties as a LegCo Member. He therefore raised the matter for Members' consideration on whether follow-up action should be taken on Mr LEUNG Kwok-hung's case in accordance with BL 79(6). He added that he had received some 200 e-mails of similar content from members of the public expressing objection to invoking the procedure for relieving Mr LEUNG of his duties as a LegCo Member.

55. Mr CHIM Pui-chung briefly recapped the background leading to the discussion of his case at the special House Committee meeting on 5 August 1998 and Members' decision to move a motion under BL 79(6) to relieve him of his duties as a LegCo Member. He pointed out that notwithstanding his explanation to Members then that his case was pending appeal, Members decided to move the motion under BL 79(6) to relieve him of his duties as a Member at the Council meeting of 9 September 1998 and the motion was passed. In his view, in considering Mr LEUNG Kwok-hung's case, the House Committee should consider whether a motion to relieve Mr LEUNG of his duties should be moved in accordance with the provisions in BL 79(6), which did not stipulate the nature of the criminal offence; Members' accountability to the public for their decision on the matter; and the need for LegCo to maintain consistency in its handling of business. He stressed that he was not directing his comments against Mr LEUNG Kwok-hung personally and it was not necessary to compare the nature of his case with that of Mr LEUNG Kwok-hung.

56. Mr Frederick FUNG said that he did not endorse the use of violence to deal with social or political issues, and accepted the court's ruling on Mr LEUNG Kwok-hung, who was convicted of criminal damage and acting in a disorderly manner at a public gathering. However, he considered that Members should leave it to the electors to decide in their votes in future elections whether they approved the means adopted by Mr LEUNG for expressing his political ideology. In his view, unless the criminal offence concerned was corruption-related, election-related or for personal gain, it was inappropriate for Members to invoke the procedure under BL 79(6) to relieve a Member of his duties. He therefore objected to invoking the procedure in respect of Mr LEUNG Kwok-hung's case.

Action

57. Mr LEE Cheuk-yan said that Members belonging to Lab P objected to moving a motion under BL 79(6) to relieve Mr LEUNG Kwok-hung of his duties as a LegCo Member. He pointed out that Mr LEUNG had committed the offence in the course of protesting against the replacement mechanism proposed by the Administration for filling vacancies in LegCo ("the replacement mechanism"), which would deprive the public of their right to vote, and the commission of the offence was for public interest. While Members might not share Mr LEUNG's political beliefs or endorse his acts, he was returned by a geographical constituency through direct election and had mandate from electors to represent them and voice their views. Should Members invoke the procedure under BL 79(6) to relieve Mr LEUNG of his duties as a LegCo Member, it would be tantamount to depriving electors who had voted for Mr LEUNG of their representation in LegCo. As Mr LEUNG was returned by direct election, it should be for the electors to decide whether he should continue to serve as a LegCo Member.

58. Mr LEE Cheuk-yan sought information on whether the moving of a motion to relieve a Member of his duties under BL 79(6) was mandatory and, if not, whether there was any specific time frame for invoking the procedure.

59. At the invitation of the Chairman, Secretary General ("SG") said that the issues raised by Mr LEE Cheuk-yan had been studied by the Committee on Rules of procedure ("CRoP") in August 1998. She explained that the moving of a motion to relieve a Member of his duties under BL 79(6) was not mandatory. BL 79(6) did not stipulate when such a motion should be moved, and it would be up to Members to determine whether, and, if so, when such a motion should be moved. Under the Rules of Procedure ("RoP"), a motion might be moved by any Member or any public officer designated by the HKSAR Government upon the giving of the requisite 12 clear days' notice. These rules also applied to a motion moved under BL 79(6).

60. At the invitation of the Chairman, LA supplemented that according to RoP 32, which governed the rescission of decisions and applied also to a motion moved under BL 79(6), if a motion was negatived, it could not be moved again in the same session.

61. Mr LEE Cheuk-yan expressed concern about the lack of a specified time frame for the moving of a motion under BL 79(6) and its impact on the work of the Member concerned. He said that without a definitive time frame for moving such a motion, the matter could remain unsettled indefinitely.

Action

62. Mr LEUNG Yiu-chung indicated objection to invoking the procedure under BL 79(6) to relieve Mr LEUNG Kwok-hung of his duties as a LegCo Member. He was of the view that Mr LEUNG Kwok-hung's conduct leading to his conviction and sentence was political in nature, what Mr LEUNG Kwok-hung did during the protest had stemmed from his strong disapproval of the proposed replacement mechanism and the unsatisfactory public consultation arrangements. Given the nature of the case, it was inappropriate for LegCo to invoke the procedure under BL 79(6). He shared the view that as Mr LEUNG Kwok-hung was returned by direct election, it should be for the electors, and not Members, to decide whether Mr LEUNG should continue to serve as a LegCo Member.

63. Mr Ronny TONG said that he had condemned the use of violence by the protestors immediately after the incident on 1 September 2011. While he considered that Mr LEUNG Kwok-hung should be subject to legal sanction for violating the law, he stressed that it was not mandatory for LegCo to invoke the procedure under BL 79(6) when a Member was convicted of a criminal offence and sentenced to imprisonment for one month or more. In determining whether a motion under BL 79(6) should be moved, Members should take into account the circumstances of Mr LEUNG's case and the nature of the offence. In his view, such a motion should be moved only when the offence committed was so grave as to warrant disqualification from the office as a LegCo Member, such as when greed or personal integrity was involved. As such, Members who proposed the moving of such a motion should give justifications.

64. Mr WONG Yuk-man referred Members to his joint letter with Mr Albert CHAN dated 23 March 2012, which was tabled at the meeting. He said that Members belonging to People Power strongly objected to invoking the procedure under BL 79(6) to relieve Mr LEUNG Kwok-hung of his duties as a LegCo Member, as they considered the conviction and sentence of Mr LEUNG a political trial. He stressed that Mr LEUNG committed an act of civil disobedience for public interest and should not have been found guilty. Moreover, as Mr LEUNG was returned by direct election, the decision to remove him from office should rest with the electors, and not LegCo. He criticized some Members for condemning Mr LEUNG's act on the one hand and objecting to invoking the procedure under BL 79(6) on the other as being hypocritical.

(Post-meeting note: The joint letter from Mr WONG Yuk-man and Mr Albert CHAN was issued to Members vide LC Paper No. CB(2) 1515/11-12 (01) on 26 March 2012.)

Action

65. Mr Paul TSE said that as Mr LEUNG Kwok-hung's case was pending appeal, he wished to remind Members that in accordance with RoP 41(2), a Member should not make reference in his speech to a case pending in a court of law in such a way as, in the opinion of the President or the Chairman, might prejudice that case.

66. Mr CHEUNG Man-kwong said that Members belonging to the Democratic Party ("DP") objected to the proposed replacement mechanism. However, they considered that such objection should be expressed in a peaceful, rational and non-violent manner. They also respected the court's ruling. He noted from the judgment that Mr LEUNG Kwok-hung acted not for personal interest but to express his opposition to the replacement mechanism. The judge disapproved Mr LEUNG's acts as they might endanger the safety of other persons at the scene. As Mr LEUNG did not act for personal gain, Members belonging to DP considered it inappropriate to invoke the procedure under BL 79(6) to relieve him of his duties as a LegCo Member.

67. Ms Cyd HO said that while Mr LEUNG Kwok-hung had to bear the legal liability for criminal damage, he had fulfilled his political responsibility of safeguarding the public's right to vote in a by-election. Hence, she objected to invoking the procedure under BL 79(6) to relieve Mr LEUNG of his duties as a LegCo Member. She further said that according to Mr Martin LEE, a member of the Basic Law Drafting Committee, the intent of incorporating the requirement of a two-thirds majority vote of the Members present for the passage of a motion moved under BL 79(6) was to prevent the mechanism from being used as a means to suppress Members holding different political views.

68. Dr Margaret NG said that acts of civil disobedience were in fact an affirmation of the law, as those who committed such acts were prepared to bear the legal consequences. Arising from Mr CHIM Pui-chung's case, LegCo studied the procedural arrangements to implement BL 79(6) in August 1998. In September 1998, Mr CHIM filed an application for leave to apply for judicial review seeking to postpone the moving of the motion under BL 79(6) in the Council until after his appeal had been heard. In his judgment on the case (*1998 HCAL No.71*), the Hon Mr Justice Keith held that a motion under BL 79(6) could be moved even though an appeal had been lodged against conviction or sentence. The judge also held that conviction and sentence did not automatically result in the Member's removal from office. The fact that two-thirds of the Members present had to vote for a Member's removal reflected the desirability of leaving the ultimate decision as to whether a Member's conviction or sentence should result in his removal from office to the

Action

good sense of LegCo Members. In Dr NG's view, each case should be considered on its own merits and circumstances, including the nature and gravity of the offence; the level of penalty imposed; whether the Member concerned was refused bail or released on bail pending appeal, which would affect whether the Member concerned would be able to serve his constituents; the time lapse between the conviction and sentence and the moving of the motion under BL 79(6); and public sentiments. Having regard to the differences between Mr CHIM Pui-ching's case and Mr LEUNG Kwok-hung's case in those aspects and given her view that Mr LEUNG had good grounds for appeal against his conviction and sentence, she objected to invoking the procedure under BL 79(6) in Mr LEUNG's case. She stressed the need for Members to take into account the circumstances of each case before deciding whether the Member concerned should be removed from office in accordance with their own principles and conscience.

69. Mr Paul TSE declared that his law firm had provided pro bono legal services to one of the defendants in Mr LEUNG Kwok-hung's case. Expressing his stance on the matter, he said that he strongly opposed to any acts of violence inside or outside LegCo. He supported setting off the procedure for the moving of a motion under BL 79(6) to relieve Mr LEUNG Kwok-hung of his duties as a LegCo Member, but would vote against the motion in the Council. He stressed that whether the procedure for moving a motion under BL 79(6) in the Council should be set off and whether the motion should be supported when it was put to vote in the Council were two different matters. In his view, it was necessary to set off the procedure under BL 79(6) when a Member was convicted of a criminal offence and sentenced to imprisonment for one month or more to uphold the integrity and credibility of LegCo and for the sake of public interest. He cited from the Hansard of the Council meeting of 9 September 1998 the speeches made by some Members at the debate on the motion under BL 79(6) to relieve Mr CHIM Pui-chung of his duties as a LegCo Member. These Members supported the invocation of the procedure once a LegCo Member was convicted and sentenced to imprisonment for one month or more for a criminal offence. This notwithstanding, it would be up to individual Members to decide whether a motion under BL 79(6) should be supported having regard to the particular circumstances of each case, such as the nature of the offence, the length of the sentence, and whether it was committed for personal gain.

70. At the invitation of the Chairman, LA said that it was not expressly provided in BL 79(6) or RoP that the moving of a motion under BL 79(6) was mandatory when a Member was convicted of a criminal offence and sentenced to imprisonment for one month or more. It would be up to

Action

Members to determine whether, and if so, when such a motion should be moved. At the special House Committee meeting on 5 August 1998, Members decided that the Chairman should move a motion under BL 79(6) to relieve Mr CHIM of his duties as a LegCo Member after considering the circumstances of the case.

71. Mr Paul TSE quoted the remarks of individual Members made at the special House Committee meeting on 5 August 1998, expressing the view that the moving of a motion to remove a Member from office under BL 79(6) was not discretionary. Mr TSE said that Members agreed at that House Committee meeting that a motion should be moved under BL 79(6) to remove Mr CHIM Pui-chung of his duties.

72. The Chairman said that the decision of the House Committee on 5 August 1998 applied to Mr CHIM Pui-chung's case only.

73. Dr Priscilla LEUNG said that she did not agree to the House Committee's decision to move a motion under BL 79(6) to relieve Mr CHIM Pui-chung of his duties, as his case was then pending appeal, which, in her view, should be an important consideration in deciding whether or not to set off the procedure under BL 79(6). She sought information on whether this point had been fully considered by Members during the relevant discussions.

74. At the invitation of the Chairman, SG said that when the House Committee discussed Mr CHIM Pui-chung's case at the special meeting on 5 August 1998, there were no procedural arrangements for implementing BL 79(6). Subsequently, CRoP had conducted a study on the subject at the request of the House Committee. During its deliberations, CRoP had considered, among others, the question of whether a motion under BL 79(6) should be moved while pending an appeal hearing. CRoP was aware that there might be situations where Members might not be in a position to decide whether to move the motion, for example, when an appeal was pending or when the details of the conviction or sentence were lacking. Nevertheless, as a Member might move to adjourn a debate without notice under RoP 40(1), CRoP considered that there was sufficient avenue in RoP to allow a decision on a motion to be deferred until Members were in a position to do so. The judge had also stated in his ruling on the judicial review lodged by Mr CHIM that it was open to Members to defer the debate on the motion until the appeal had been heard.

Action

75. At the invitation of the Chairman, LA said that a letter dated 11 August 1998 from the law firm acting for Mr CHIM Pui-chung informing that Mr CHIM's appeal was in the pipeline was circulated to Members for information on 13 August 1998.

76. Mr LAU Kong-wah said that at the special House Committee meeting on 5 August 1998, some Members including Mr TAM Yiu-chung had raised the question of whether Mr CHIM Pui-chung could be removed from office while his case was under appeal. Many other Members however were of the view that it was inappropriate to defer action on the ground that an appeal was pending. In Mr LAU's view, Members should observe procedural fairness and follow precedents. It was procedurally unjust and unfair to Mr CHIM should Members decide not to follow the precedent in respect of Mr LEUNG Kwok-hung's case. He stressed the need for LegCo to maintain consistency in its decisions. The setting off of the procedure under BL 79(6) and the relief or otherwise of Mr LEUNG Kwok-hung of his duties as a LegCo Member were separate matters. The latter was a political decision which rested with individual Members. He added that should the House Committee decide to move a motion under BL 79(6) to remove Mr LEUNG from office, the motion should be moved by the Chairman as in Mr CHIM's case.

77. The Chairman informed Members that Mr Paul TSE had put forward in writing a proposal for the Chairman of the House Committee to move a motion under BL 79(6) to relieve Mr LEUNG Kwok-hung of his duties as a Member of LegCo. The proposal, seconded by Dr Philip WONG, would be dealt with after Members had given their views on the matter.

78. Mrs Sophie LEUNG said that LegCo was accountable to the public. In her view, Members should follow the established practice and procedure of LegCo and trigger the procedure under BL 79(6). Detailed considerations of whether Mr LEUNG Kwok-hung should be relieved of his duties should be discussed during the debate on the motion.

79. Mr CHIM Pui-chung reiterated that BL 79(6) did not stipulate the nature of a criminal offence convicted by a LegCo Member for setting off the procedure. He criticized Members belonging to the Civic Party for adopting double standards. In his view, the moving of a motion to remove Mr LEUNG Kwok-hung from office was necessary to uphold the credibility of LegCo and ensure fairness and consistency in the implementation of BL 79(6).

Action

80. Referring to the judgment on the judicial review lodged by Mr CHIM Pui Chung (*1998 HCAL No.71*), Dr Margaret NG said that the Hon Mr Justice Keith had held that there was nothing in the construction of BL 79(6) to justify the argument that a motion could be moved under BL 79(6) only after the exhaustion of all avenues of appeal. Dr NG further said that at the special House Committee meeting on 5 August 1998, she had once expressed the view that Members had the duty to move a motion to disqualify a Member under BL 79(6) when he was convicted of a criminal offence and sentenced to imprisonment for one month or more. However, LA had advised Members then that the moving of a motion was not mandatory and it would be up to Members to determine whether such a motion should be moved having regard to the circumstances of the case in question. She reiterated her reservation about invoking the procedure under BL 79(6) in respect of Mr LEUNG Kwok-hung's case on the ground of public interest.

81. Dr Philip WONG said that his support for Mr Paul TSE's proposal for setting off the procedure under BL 79(6) was not based on any political considerations. He was concerned about setting a bad precedent should the procedure as stipulated in BL 79(6) not be invoked in the case of Mr LEUNG Kwok-hung who was convicted of a criminal offence and sentenced to more than one month's imprisonment.

82. Dr PAN Pey-chyou said that while Mr LEUNG Kwok-hung's acts were to express his political ideology, they should not cause harm to other people. He shared the view that for the sake of consistency and to maintain the credibility of LegCo, the procedure under BL 79(6) should be triggered in Mr LEUNG Kwok-hung's case.

83. Mr Paul TSE reiterated his view that the procedure under BL 79(6) should be invoked in Mr LEUNG Kwok-hung's case for the sake of consistency and procedural fairness, and Members should take into consideration the circumstances of Mr LEUNG's case such as the length of sentence and whether the decision would lead to irreversible consequences when deciding whether to support the motion to relieve him from his duties as a LegCo Member.

84. Dr Priscilla LEUNG surmised that the House Committee's decision to move a motion to remove Mr CHIM Pui-chung from office had been made in haste and considered the decision unfair to Mr CHIM. She concurred with the view that Members should not adopt double standards. To ensure fairness and consistency in the implementation of BL 79(6), the procedure under BL 79(6) should be set off in respect of Mr LEUNG Kwok-hung's case. It would be for individual Members to make their own political decision as to whether to support the motion.

Action

85. Mr IP Kwok-him said that Members should follow the established mechanism and considered it unfair to Mr CHIM Pui-chung should Members decide not to set off the procedure in Mr LEUNG Kwok-hung's case. He shared the view that triggering the moving of the motion and whether to support the motion were two different matters as the latter was a political decision. Noting that Members belonging to DP had expressed objection to invoke the procedure, he cited Dr YEUNG Sum's remarks made at the special meeting of the House Committee on 5 August 1998 expressing support for the moving of a motion under BL 79(6) in Mr CHIM Pui-chung's case.

86. Mr LEUNG Kwok-hung noted that in his reply to Mr TAM Yiu-chung at the special House Committee meeting on 5 August 1998, LA had said that the moving of a motion to relieve Mr CHIM Pui-chung of his duties as a LegCo Member pending the outcome of his appeal would not set a binding precedent, given that the circumstances of the case and future cases, if any, would be different. In Mr LEUNG's view, whether a motion should be moved to disqualify a Member from office was a political decision, rather than a question of fairness. He said that LegCo was a political forum and all decisions of Members were political decisions. Members who supported the moving of the motion to relieve him of his duties were only fulfilling their duties as LegCo Members to reflect the views of their electors. He thanked those Members including Mr WONG Yuk-man and Mr Albert CHAN who had expressed support for him.

87. Mr WONG Yuk-man suggested putting the matter to vote expeditiously, since Members had fully expressed their views on the matter.

88. Dr Margaret NG said that a motion to disqualify a LegCo Member under BL 79(6) could be moved by any Member and any Member might move a motion to adjourn the debate on the motion having regard to any changes in circumstances. She stressed that the principles established in precedents should be applied in the light of individual circumstances of each case. Given the differences in the specific circumstances of Mr CHIM Pui-chung's case and Mr LEUNG Kwok-hung's case, she had reached different conclusions on them. She said that Members belonging to the Civic Party would abstain from voting on Mr Paul TSE's proposal.

89. Mr LAU Kong-wah opined that Dr Margaret NG had adopted double standards in respect of the two cases under discussion. He said that Members should not send off the wrong message that Mr LEUNG Kwok-hung's acts were heroic. In his judgment, the judge stated that Mr

Action

LEUNG's behaviour was irritating, had disrupted social order and had put other people's safety at risk. He therefore considered the moving of a motion under BL 79(6) to relieve Mr LEUNG of his duties as a LegCo Member necessary. He added that regarding Mr LEUNG's conviction as a political trial was disrespectful to the judge's ruling.

90. Dr Margaret NG said that Members should not attack other Members in their speeches.

91. Mr CHAN Kin-por said that Members should not give the public an impression that they were selective in deciding whether to set off the procedure under BL 79(6). While he supported the proposal for setting off the procedure, he would unlikely vote for the motion in the Council.

92. Mr LEUNG Kwok-hung considered it inappropriate for Mr LAU Kong-wah to quote selectively only a few lines from the judgment.

93. Dr Margaret NG clarified that Members belonging to the Civic Party would vote against Mr Paul TSE's proposal.

94. As there were divided views among Members, the Chairman put to vote the following proposal from Mr Paul TSE, which was seconded by Dr Philip WONG -

"根據《基本法》第七十九(六)條，由內務委員會主席動議解除梁國雄議員的立法會議員職務的議案。"

(Translation)

"That a motion be moved by the Chairman of the House Committee under BL 79(6) to relieve Hon LEUNG Kwok-hung of his duties as a LegCo Member."

Ms Emily LAU requested a division.

The following Members voted in favour of the proposal:

Mr CHAN Kam-lam, Mrs Sophie LEUNG, Dr Philip WONG, Mr WONG Yung-kan, Mr LAU Kong-wah, Mr Jeffrey LAM, Mr CHEUNG Hok-ming, Mr WONG Ting-kwong, Mr CHIM Pui-chung, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr IP Kwok-him, Dr PAN Pey-chyou and Mr Paul TSE.

(16 Members)

Action

The following Members voted against the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr Fred LI, Dr Margaret NG, Mr CHEUNG Man-kwong, Mr LEUNG Yiu-chung, Ms Emily LAU, Ms Audrey EU, Mr LEE Wing-tat, Dr Joseph LEE, Mr KAM Nai-wai, Ms Cyd HO, Mr WONG Sing-chi, Mr Alan LEONG, Mr LEUNG Kwok-hung, Miss Tanya CHAN, Mr Albert CHAN and Mr WONG Yuk-man.

(18 Members)

The following Member abstained from voting:

Hon Tommy CHEUNG

(1 Member)

95. The Chairman declared that 16 Members voted for, 18 Members voted against the proposal and one Member abstained. The proposal was not supported.

96. There being no other business, the meeting ended at 5:32 pm.

Council Business Division 2
Legislative Council Secretariat
12 April 2012