

立法會
Legislative Council

LC Paper No. CB(2)1587/17-18

Ref : CB2/H/5/17

House Committee of the Legislative Council

**Minutes of the 25th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 8 June 2018**

Members present :

Hon Starry LEE Wai-king, SBS, JP (Chairman)
Hon James TO Kun-sun
Hon LEUNG Yiu-chung
Hon Abraham SHEK Lai-him, GBS, JP
Prof Hon Joseph LEE Kok-long, SBS, JP
Hon Jeffrey LAM Kin-fung, GBS, JP
Hon WONG Ting-kwong, GBS, JP
Hon CHAN Hak-kan, BBS, JP
Hon CHAN Kin-por, GBS, JP
Dr Hon Priscilla LEUNG Mei-fun, SBS, JP
Hon WONG Kwok-kin, SBS, JP
Hon Mrs Regina IP LAU Suk-yee, GBS, JP
Hon Paul TSE Wai-chun, JP
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon Steven HO Chun-yin, BBS
Hon Frankie YICK Chi-ming, SBS, JP
Hon WU Chi-wai, MH
Hon YIU Si-wing, BBS
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
Hon LEUNG Che-cheung, SBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, BBS, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung, JP
Hon Christopher CHEUNG Wah-fung, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung

Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, BBS, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kiwok, SBS, MH, JP
Hon Alvin YEUNG
Hon Andrew WAN Siu-kin
Hon CHU Hoi-dick
Hon Jimmy NG Wing-ka, JP
Hon HO Kai-ming
Hon LAM Cheuk-ting
Hon Holden CHOW Ho-ding
Hon SHIU Ka-fai
Hon SHIU Ka-chun
Hon YUNG Hoi-yan
Dr Hon Pierre CHAN
Hon CHAN Chun-ying
Hon Tanya CHAN
Hon CHEUNG Kwok-kwan, JP
Hon HUI Chi-fung
Hon LUK Chung-hung
Hon LAU Kwok-fan, MH
Hon Kenneth LAU Ip-keung, BBS, MH, JP
Dr Hon CHENG Chung-tai
Hon KWONG Chun-yu
Hon Jeremy TAM Man-ho
Hon Gary FAN Kwok-wai
Hon AU Nok-hin
Hon Vincent CHENG Wing-shun, MH
Hon Tony TSE Wai-chuen, BBS

Members absent :

Hon Dennis KWOK Wing-hang (Deputy Chairman)
Hon Tommy CHEUNG Yu-yan, GBS, JP
Hon MA Fung-kwok, SBS, JP
Hon CHUNG Kwok-pan
Dr Hon Junius HO Kwan-yiu, JP
Hon Wilson OR Chong-shing, MH

Clerk in attendance :

Miss Flora TAI

Clerk to the House Committee

Staff in attendance :

Mr Kenneth CHEN, SBS	Secretary General
Ms Connie FUNG	Legal Adviser
Miss Odelia LEUNG	Deputy Secretary General
Ms Anita SIT	Assistant Secretary General 1
Ms Dora WAI	Assistant Secretary General 3
Mr Matthew LOO	Assistant Secretary General 4
Mr Timothy TSO	Senior Assistant Legal Adviser 1
Mr YICK Wing-kin	Senior Assistant Legal Adviser 2
Mr Kelvin LEE	Senior Assistant Legal Adviser 3
Ms Amy YU	Principal Council Secretary 1
Ms Hallie CHAN	Head (Public Information)
Ms Alice LEUNG	Chief Council Secretary (2)6
Miss Joyce CHAN	Assistant Legal Adviser 1
Miss Rachel DAI	Assistant Legal Adviser 2
Mr Alvin CHUI	Assistant Legal Adviser 3
Ms Wendy KAN	Assistant Legal Adviser 6
Mr Cliff IP	Assistant Legal Adviser 8
Mr Richard WONG	Senior Council Secretary (2)6
Ms Jasmine TAM	Senior Council Secretary (2)8
Miss Connie AU	Council Secretary (2)6
Mr Clement HAU	Council Secretary (2)7
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

Action

I. Confirmation of minutes of meeting

Minutes of 24th meeting held on 1 June 2018

(LC Paper No. CB(2)1530/17-18)

The minutes were confirmed.

II. Matters arising

Report by the Chairman on her meeting with the Chief Secretary for Administration

2. The Chairman said that at the last meeting of the House Committee ("HC"), Members raised concerns about the workload of the Secretariat and the insufficiency of manpower resources to support the servicing work for subcommittees on policy issues, and they hoped that the Administration would allocate more resources to the Secretariat so that the relevant servicing work could be provided as early as possible. The Chairman further said that she and the Deputy Chairman had respectively conveyed the above request to the Chief Secretary for Administration ("CS") at their last meeting with CS, and CS had indicated that the Administration would make positive response through the annual Resource Allocation Exercise, as in the case of last year. Furthermore, CS had once again expressed gratitude on behalf of the Administration to Members for their cooperation in recent months, resulting in the smooth passage/approval of a number of Bills, funding proposals and public works projects which were beneficial to people's livelihood.

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)

United Nations Sanctions (Amendment) Bill 2018 *(LC Paper No. LS65/17-18)*

3. At the invitation of the Chairman, Legal Adviser ("LA") briefed Members on the report prepared by the Legal Service Division ("LSD") on the above Bill.

4. Members considered it not necessary to form a Bills Committee to study the Bill and did not raise objection to the resumption of the Second Reading debate on the Bill.

(b) Legal Service Division report on subsidiary legislation gazetted on 1 June 2018 and tabled in Council on 6 June 2018

(LC Paper No. LS67/17-18)

5. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the four items of subsidiary legislation (i.e. L.N. 108 to L.N. 111) which were gazetted on 1 June 2018 and tabled in Council on 6 June 2018.

6. Ms Tanya CHAN considered it necessary to form a subcommittee to study the three items of subsidiary legislation relating to the commissioning of the West Kowloon Station of the Guangzhou-Shenzhen-Hong Kong Express Rail Link (i.e. the Immigration (Places of Detention) (Amendment) Order 2018 (L.N. 109), the Immigration Service (Designated Places) (Amendment) Order 2018 (L.N. 110) and the Cross-boundary Movement of Physical Currency and Bearer Negotiable Instruments Ordinance (Amendment of Schedule 1) (No. 2) Notice 2018 (L.N. 111)) in detail. Members agreed. The following Members agreed to join the subcommittee: Mr CHAN Hak-kan, Mr WU Chi-wai, Mr YIU Si-wing and Ms Tanya CHAN.

7. Members did not raise any questions on the Tramway Ordinance (Alteration of Fares) (Amendment) Notice 2018 (L.N. 108).

8. Members noted that the deadline for amending the above four items of subsidiary legislation would be the Council meeting of 4 July 2018, or the first meeting of the next session if extended by a resolution of the Council.

IV. Further business for the Council meeting of 13 June 2018

(a) Tabling of papers

Report No. 15/17-18 of the House Committee on Consideration of Subsidiary Legislation and Other Instruments

(LC Paper No. CB(2)1532/17-18)

9. The Chairman said that the Report covered one item of subsidiary legislation (i.e. the Pharmacy and Poisons (Amendment) (No. 3) Regulation 2018 (L.N. 80)) and the period for amending it would expire at the Council meeting of 13 June 2018. No Member had indicated intention to speak on the subsidiary legislation.

(b) Bill - First Reading and moving of Second Reading

10. The Chairman said that HC would consider the Inland Revenue (Amendment) (No. 5) Bill 2018 at its meeting on 15 June 2018.

(c) Members' motions

- (i) Proposed resolution to be moved by Dr Hon KWOK Ka-ki under section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the Smoking (Public Health) Ordinance (Amendment of Schedule 2) Order 2018**
(LC Paper No. CB(3)681/17-18)

11. The Chairman said that the purpose of the above proposed resolution was to extend the period for amending the Order to the Council meeting of 4 July 2018.

- (ii) Proposed resolution to be moved by Hon Holden CHOW under section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the Securities and Futures (Professional Investor) (Amendment) Rules 2018**
(LC Paper No. CB(3)677/17-18)

- (iii) Proposed resolution to be moved by Hon Charles Peter MOK under section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the following items of subsidiary legislation:**

- **Telecommunications (Designation of Frequency Bands subject to Payment of Spectrum Utilization Fee) (Amendment) Order 2018;**
- **Telecommunications (Level of Spectrum Utilization Fees) (Second Generation Mobile Services) (Amendment) Regulation 2018;**
- **Telecommunications (Determining Spectrum Utilization Fees by Auction) (Amendment) Regulation 2018; and**

- **Telecommunications (Method for Determining Spectrum Utilization Fee) (Administratively Assigned Spectrum in the 1800 MHz Band) Regulation**

(LC Paper No. CB(3)678/17-18)

12. The Chairman said that the purpose of the above two proposed resolutions was to extend the period for amending the subsidiary legislation concerned to the Council meeting of 11 July 2018.

V. Business for the Council meeting of 20 June 2018

(a) Questions

(LC Paper No. CB(3)665/17-18)

13. The Chairman said that 22 questions (six oral and 16 written) had been scheduled for the Council meeting.

(b) Bill - First Reading and moving of Second Reading

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

(c) Bill - resumption of debate on Second Reading, Consideration by Committee of the Whole Council and Third Reading

15. The Chairman said that at the HC meeting held on 1 June 2018, Members did not raise objection to the resumption of the Second Reading debate on the Inland Revenue (Amendment) (No. 2) Bill 2018 at the Council meeting.

(d) Government motion

Proposed resolution to be moved by the Secretary for Commerce and Economic Development under section 31(4) of the Import and Export Ordinance (Cap. 60)

(LC Paper No. CB(3)654/17-18)

(LC Paper No. LS64/17-18)

16. At the invitation of the Chairman, LA briefed Members on the report prepared by LSD on the above proposed resolution.

Action

17. Members did not raise any questions on the proposed resolution and had no objection to the Administration moving the proposed resolution at the Council meeting of 20 June 2018.

(e) **Members' motions**

18. The Chairman said that since the Council could not deal with Members' motions on the Agenda at its meeting of 6 June 2018, various Members' motions would be rescheduled to the Council meeting of 13 June 2018 and thereafter, including the two Members' motions originally scheduled to be dealt with at the Council meeting of 20 June 2018, i.e. the motion on "Report of the Subcommittee on Children's Rights" to be moved by Dr Fernando CHEUNG and the motion on "Studying the formulation of policies for homosexual couples to enter into a union" to be moved by Mr CHAN Chi-chuen. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to these two motions would be Tuesday, 12 June 2018.

Report of HC on Consideration of Subsidiary Legislation

19. The Chairman invited Members to note the list tabled at the meeting (LC Paper No. CB(3)680/17-18), which contained 20 items of subsidiary legislation the period for amendment of which would expire at the Council meeting of 20 June 2018. She reminded Members to indicate their intention by 5:00 pm on Tuesday, 12 June 2018, should they wish to speak on any of these items of subsidiary legislation.

VI. Reports of Bills Committees and subcommittees

(a) **Report of the Bills Committee on Road Traffic (Amendment) Bill 2018**

(LC Paper No. CB(4)1205/17-18)

20. Mr Frankie YICK, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Members noted that both the Bills Committee and the Administration would not propose any amendments to the Bill and that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 27 June 2018.

Action

21. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above Bill would be Saturday, 16 June 2018.

(b) Report of the Subcommittee on Proposed Resolutions under the District Court Ordinance and the Small Claims Tribunal Ordinance

(LC Paper No. CB(4)1194/17-18)

22. Mr Holden CHOW, Chairman of the Subcommittee, briefed Members on the deliberations of the Subcommittee as detailed in its report. Mr CHOW said that the Subcommittee would not propose any amendments to the above two proposed resolutions and noted that the Administration would give fresh notice to move these proposed resolutions at the Council meeting of 27 June 2018.

23. Mr James TO said that he might propose amendments to the proposed resolution under the Small Claims Tribunal Ordinance to amend Small Claims Tribunal's civil jurisdictional limit of \$50,000 to \$100,000.

24. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the above two proposed resolutions would be Wednesday, 20 June 2018.

(c) Report of the Subcommittee on Medical Council (Election and Appointment of Lay Members) Regulation

25. Ms Alice MAK, Chairman of the Subcommittee, made a verbal report on the deliberations of the Subcommittee. She said that the purpose of the Medical Council (Election and Appointment of Lay Members) Regulation was to provide for the procedures in relation to the election and appointment of three lay members of the Medical Council of Hong Kong ("MCHK") representing the interests of patients ("Lay Members").

26. Ms MAK informed Members that members of the Subcommittee raised no objection to the various procedures set out in the Regulation. Members of the Subcommittee noted that the Administration planned to publish, upon the expiry of the scrutiny period of the Regulation and at the latest on 29 June 2018, a notice in the Gazette for appointing the gazettal date as the day of commencement of the Regulation. The Administration had explained that while the commencement notice would

Action

be subject to negative vetting by the Legislative Council ("LegCo"), the Regulation would come into operation on the gazettal date of the commencement notice in order to kick start the election process as soon as possible. The Secretariat of MCHK would immediately start the preparation work for the first election of the Lay Members in accordance with the Regulation. Ms MAK further said that according to the Administration, it was expected that the election would be completed by end-2018 and the Lay Members would assume office in early 2019.

27. Ms MAK also advised that Members of the Subcommittee noted that the Administration had, in response to the observations of the Legal Adviser to the Subcommittee, undertaken to consider amending the Regulation in future amendment exercises, in order to resolve inconsistencies between certain provisions of the Regulation and address minor drafting issues.

28. Members noted that the Subcommittee would not propose any amendments to the Regulation and a written report would be submitted in due course.

29. The Chairman reminded Members that the period for amending the above subsidiary legislation would expire at the Council meeting of 20 June 2018 and the deadline for giving notice of amendments, if any, would be Tuesday, 12 June 2018.

VII. Position on Bills Committees and subcommittees

(LC Paper No. CB(2)1531/17-18)

30. The Chairman said that as at 7 June 2018, there were 10 Bills Committees, 16 subcommittees under HC and four subcommittees on policy issues under Panels in action. Nine subcommittees on policy issues were on the waiting list.

VIII. Proposed parliamentary visit to the United Kingdom and Scottish Parliaments organized by the Parliamentary Liaison Subcommittee

(LC Paper No. CB(4)1202/17-18)

31. At the invitation of the Chairman, Mr IP Kin-yuen, Chairman of the Parliamentary Liaison Subcommittee, invited Members to consider the following proposals of the Subcommittee:

Action

- (a) a visit by a LegCo delegation to the United Kingdom be organized in September 2018 (tentatively from 8 to 16 September 2018), with details set out in paragraphs 6 and 7 of the paper;
- (b) the size of the LegCo delegation(s) on visit(s) organized by the Subcommittee in the Sixth LegCo be set at nine fully-sponsored Members and seven self-financing Members, with details set out in paragraph 13 of the paper; and
- (c) the proposed mechanism for selecting Members to join the LegCo delegation(s) on visit(s) organized by the Subcommittee in the Sixth LegCo as set out in paragraph 15 of the paper be adopted.

32. Members endorsed the above proposals of the Parliamentary Liaison Subcommittee.

IX. Establishment of the Investigation Committee under Rule 49B(2A) of the Rules of Procedure in respect of the motion to censure Hon HUI Chi-fung

(LC Paper No. CB(4)1203/17-18)

33. Members endorsed the following proposals relating to the establishment of the Investigation Committee under Rule 49B(2A) of the Rules of Procedure ("RoP") in respect of the motion to censure Hon HUI Chi-fung ("the said IC") which were set out in paragraph 5 of the paper:

- (a) a subcommittee need not be formed to undertake the preparatory work for the establishment of the said IC;
- (b) the proposed election procedure set out in Appendix II to the paper be adopted for the said IC, which was the same as that endorsed by HC at its meeting on 23 June 2017 in respect of the establishment of another IC; and
- (c) taking into account the nomination period set out in paragraph 2 of the proposed election procedure, the election of Members for appointment to the said IC be held at the HC meeting on 22 June 2018.

Action

34. Members noted that in accordance with paragraph 2 of the approved election procedure, the Secretariat would invite nominations by issuing a circular and a nomination form to all Members at least seven clear days before the election date (i.e. 22 June 2018).

X. Proposal of Dr Hon CHENG Chung-tai to seek the Council's authorization for the appointment of a select committee to inquire into the incident of the MTR Corporation Limited's suspected concealment of the alleged substandard construction works carried out at the new platforms of the Hung Hom station of the Shatin to Central Link
(LC Paper No. CB(2)1542/17-18(01))

35. At the invitation of the Chairman, Dr CHENG Chung-tai said that it was necessary for LegCo to invoke the powers under section 9 of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") to inquire into the incident of the MTR Corporation Limited ("MTRCL")'s suspected concealment of the alleged substandard construction works carried out at the new platforms of the Hung Hom station of the Shatin to Central Link ("SCL") ("the incident"). He further said that if it had not been reported recently by the media, the alleged substandard construction works which were carried out in 2015 would still be unknown to the public. Since the incident was more than simply a matter concerning the construction safety of the new platforms of the Hung Hom station, he considered it necessary to investigate whether the incident involved any serious mistakes or criminal offences (such as the use of false instrument and fraud) committed by the relevant parties including government officials, staff of MTRCL, the main contractor and the subcontractor involved in the incident. Dr CHENG called on Members' support for his proposal for the HC Chairman to move the motion proposed by him in the Council to seek the Council's authorization for the appointment of a select committee to inquire into the incident.

36. Pointing out that the incident involved public safety and was a matter of great importance, Mr LAM Cheuk-ting said that Members of the Democratic Party ("DP") supported the proposed invocation of the powers under the P&P Ordinance to inquire into the incident, and also considered that the Administration should set up an independent commission of inquiry to conduct an investigation into this incident. In his view, MTRCL had so far failed to provide convincing explanations or

Action

sufficient details about the incident, and LegCo was duty bound to find out the truth for the public. Besides, the proposed select committee could examine whether the Transport and Housing Bureau and the Highways Department ("HyD") had properly performed their duties of monitoring the construction works of SCL, and could draw up recommendations to prevent recurrence of similar incidents. Mr LAM called on Members' support for Dr CHENG Chung-tai's proposal.

37. Ir Dr LO Wai-kwok said that MTRCL should have put in place a monitoring system for project management to ensure that the construction works met the relevant safety requirements and standards. In his view, MTRCL should investigate why the incident occurred and whether there were any problems in its monitoring system. He further said that MTRCL had undertaken to submit a report to the Administration in the week after this meeting, and that if the Administration found the report unsatisfactory, it could set up an independent commission of inquiry to conduct an investigation into the incident. Therefore, he considered it too early for Members to consider invoking the powers under the P&P Ordinance to inquire into the incident at the present stage.

38. Mr CHAN Han-pan said that while it was warranted to conduct an investigation into the incident, he considered it more desirable for the Administration to set up an independent commission of inquiry to conduct an investigation into the incident and make recommendations to prevent recurrence of similar incidents. He considered that based on past experience, a commission of inquiry chaired by a judge would conduct the relevant work in a more effective and credible manner than a select committee of LegCo. He added that Members of the Democratic Alliance for the Betterment and Progress of Hong Kong would make such a request to the Chief Executive ("CE") later in writing.

39. Mr CHU Hoi-dick considered that irrespective of whether the Administration would set up a commission of inquiry to conduct an investigation into the incident, it was incumbent upon LegCo to invoke the powers under the P&P Ordinance to inquire into the incident. In his view, the proposed select committee would find out the truth for the public in an open and transparent manner, including the details of the alleged substandard works at the new platforms of the Hung Hom station, whether similar substandard construction works were found in other parts of SCL, and the details of MTRCL's suspected concealment of the alleged substandard works. Therefore, Mr CHU supported Dr CHENG Chung-tai's proposal.

Action

40. Pointing out that MTRCL had given conflicting explanations of the incident over the past week, Mr Jeremy TAM commented that the way MTRCL had handled the incident was very unsatisfactory. In his view, the corporate governance of MTRCL was at fault. Apart from issues relating to structural safety of the new platforms of the Hung Hom station, it was of the utmost importance to find out whether someone had committed fraud or forgery in the incident, and if so, the details. He therefore considered it necessary for LegCo to invoke the powers under the P&P Ordinance to inquire into the incident, irrespective of whether the Administration would set up a commission of inquiry to conduct an investigation into the incident.

41. Expressing support for Dr CHENG Chung-tai's proposal, Ms Claudia MO considered it unacceptable for MTRCL to have responded evasively to queries raised over the incident and failed to make available the relevant documents for public information. She was worried whether similar substandard construction works had been carried out in other parts of SCL. Ms MO further said that she could not subscribe to the view that LegCo should not invoke the powers under the P&P Ordinance to inquire into the incident because such an inquiry would likely be politicized. She stressed that as it was the responsibility of LegCo to monitor the work of the Executive Authorities, LegCo should conduct an inquiry into the incident to ascertain, among others, whether the Administration should be held responsible.

42. Mr Tony TSE commented that the incident was very serious indeed as SCL was an important transport infrastructure in Hong Kong and the alleged substandard construction works would have significant impact on public safety. While he also considered that the explanations given by MTRCL and the Administration so far were unclear and unsatisfactory, he had reservations about invoking the powers under the P&P Ordinance to inquire into the incident at the present stage. In his view, it was more appropriate to first consider the report to be submitted by MTRCL to the Administration before deciding whether it was necessary for LegCo to conduct the proposed inquiry under the P&P Ordinance.

43. Mr LUK Chung-hung said that while the manner in which MTRCL had disclosed information relating to the incident over the past week and the failure of the main contractor involved to provide an account of the matter had aroused grave public concern about the structural safety of the new platforms of the Hung Hom station, he considered it premature for

Action

LegCo to invoke the powers under the P&P Ordinance to inquire into the incident at the present stage. He considered that an independent commission of inquiry set up by the Administration to conduct an investigation into the incident was a more efficient way to clear the doubts surrounding it. He added that should the Administration refuse to do so, he would not rule out the possibility of giving support to the proposed invocation of the powers under the P&P Ordinance to inquire into the incident.

44. Mr KWONG Chun-yu expressed support for Dr CHENG Chung-tai's proposal. He said that while the Administration might set up an independent commission of inquiry to conduct an investigation into the incident, he saw no reason why LegCo could not conduct in parallel an inquiry into the incident. Given that the information provided by MTRCL so far was unclear and incomplete and concern had been raised about possible cover-up on the part of MTRCL, he considered it incumbent upon LegCo to invoke the powers under the P&P Ordinance to inquire into the incident to clear the doubts surrounding it and allay public concern about the safety of SCL.

45. In response to Mr CHAN Chi-chuen's enquiry, the Chairman advised that according to rule 24(n) of the House Rules, the decisions of a committee should not be reopened for discussion unless with the permission of the committee. If Dr CHENG Chung-tai's proposal was not supported by Members at this meeting, a request for discussing at a future HC meeting a proposal which was substantially the same as Dr CHENG's proposal which Members decided not to support would normally not be permitted, unless there were new developments and HC agreed to do so. The Chairman further said that even if a Member's proposal for invoking the powers under the P&P Ordinance was not supported by HC, the Member concerned might give notice to move the relevant motion in Council should he or she wish to do so.

46. Mr CHAN Chi-chuen expressed support for invoking the powers under the P&P Ordinance to inquire into the incident. He said that the conflicting explanations given by MTRCL over the past week and its refusal to make public information relevant to the incident reflected that MTRCL had not followed up the matter seriously. Mr CHAN further said that given the close ties between MTRCL and the main contractor involved in the incident, and having regard to the fact that the Government was a major shareholder of MTRCL, he did not consider that the investigations, if any, being or to be conducted by MTRCL and the

Action

Administration in relation to the incident would be carried out in an impartial and independent manner. He appealed for Members' support for Dr CHENG Chung-tai's proposal.

47. Mr Kenneth LEUNG said that the incident was very serious as the issue of public safety was involved. He further said that Members were only invited to consider at this meeting the proposal for the HC Chairman to move, on behalf of Members, the motion proposed by Dr CHENG Chung-tai in Council, and not whether the said motion should be supported. As the said motion was proposed to be moved at the Council meeting of 27 June 2018, Members should have sufficient time to consider whether to support the said motion after reading the report to be submitted by MTRCL to the Administration by 15 June 2018. Mr LEUNG stressed that while the Administration might set up an independent commission of inquiry to conduct an investigation into the incident, he saw no reason why LegCo, given its constitutional status, should not exercise its powers under the P&P Ordinance to conduct an inquiry into the incident. He added that he did not consider that the proposed inquiry would necessarily be politicized.

48. Mr Jeffrey LAM said that it was regrettable that even though MTRCL had given explanations of the incident, the public did not find them convincing. Given that the incident, in his view, had been politicized, he considered it more appropriate for the Administration to set up an independent commission of inquiry, chaired by a judge and comprised members from related professions, to conduct an investigation into the incident to find out the truth. Furthermore, the investigation conducted by an independent commission of inquiry would be more credible.

49. Dr Helena WONG said that the incident was a matter of great public importance and Members of DP supported the proposed invocation of powers under the P&P Ordinance to appoint a select committee to conduct an inquiry into the incident. She further said that while she would welcome the Administration to set up an independent commission of inquiry to conduct an investigation into the incident, she considered it appropriate for LegCo to invoke the powers under the P&P Ordinance to inquire into the incident because the alleged substandard construction works of the new platforms of the Hung Hom station could lead to unbearable consequences in the future when SCL came into operation.

Action

50. Ms Tanya CHAN commented that the conflicting explanations of the incident given by MTRCL had damaged the public's confidence in MTRCL. While she was aware that MTRCL had appointed an independent third-party expert to carry out load tests to affirm the structural safety of the new platforms of the Hung Hom station and would also conduct an investigation into the incident, she was concerned that such an investigation could not reveal the respective roles of the main contractor and the subcontractor involved in the incident and who was/were at fault. Therefore, she considered it necessary to invoke the powers under the P&P Ordinance to inquire into the incident, as LegCo had also appointed select committees conferred with such powers to investigate into matters of great public importance in the past. Ms CHAN added that while the Administration might set up an independent commission of inquiry under the Commissions of Inquiry Ordinance (Cap. 86) to conduct an investigation into the incident, she did not see any problems for LegCo to invoke the powers under the P&P Ordinance to conduct the proposed inquiry.

51. Mr Frankie YICK said that while the manner in which MTRCL had disclosed information relating to the incident over the past week was unsatisfactory, he welcomed MTRCL to appoint an independent third-party expert to conduct load tests to affirm the structural safety of the new platforms of the Hung Hom station. He also shared the views of those Members who supported the Administration to set up an independent commission of inquiry to conduct an investigation into the incident. As MTRCL would submit a report to the Administration, he considered it more appropriate to first consider the report and not necessary to appoint the proposed select committee to inquire into the incident at the present stage. Mr YICK added that Members of the Liberal Party would not support Dr CHENG Chung-tai's proposal.

52. Mr WU Chi-wai said that Members of DP supported the proposed invocation of powers under the P&P Ordinance to appoint a select committee to inquire into the incident. He further said that he was very concerned about the remarks of the senior management of MTRCL, which seemingly suggested that it was a practice of the construction industry that the irregularities in the construction works would not be reported if they had been rectified in compliance with the relevant requirements and standards. He also commented that the conflicting explanations given by MTRCL about the incident had caused the public to lose confidence in the corporation.

53. Mr Christopher CHEUNG said that after the incident had been reported by the media, the senior management of MTRCL had made inconsistent and perplexing remarks. Pointing out that the public had a stake in MTRCL, he stressed that the corporation should respond to the queries raised by the public over the incident in a transparent manner. However, he considered that whether to appoint the proposed select committee could be decided after MTRCL had submitted its report to the Administration, and if MTRCL could not provide clear explanations of the incident in that report, he would seriously consider supporting invocation of the powers under the P&P Ordinance to conduct the proposed inquiry.

54. Dr KWOK Ka-ki commented that the incident had given rise to serious public concern about the safety of the new platforms of the Hung Hom station. He considered that HyD, MTRCL, the main contractor and the subcontractor involved in the incident had their respective responsibilities in the incident. In his view, even if the Administration might appoint an independent commission of inquiry to conduct an investigation into the incident, one could not be certain whether the Administration might attempt to conceal its own fault, if any, during the process of the investigation. Dr KWOK said that Members had the political responsibility to find out the truth about the incident in order to do justice to the public. He therefore supported the proposed invocation of powers under the P&P Ordinance to appoint a select committee to conduct an inquiry into the incident.

55. Dr Elizabeth QUAT said that she also saw the need to investigate into the incident as the account of the incident provided by MTRCL so far remained unclear and the public had expressed grave concern over the incident. According to past experience, the appointment by CE an independent commission of inquiry was the most efficient and effective way to find out the truth and to make constructive recommendations to prevent recurrence of similar incidents. The past experience also showed that the select committees appointed by virtue of the P&P Ordinance usually took a long time to complete their inquiries and the operation of such select committees was not very efficient and effective. Dr QUAT added that it was unfair to Members of the pro-establishment camp as some Members had implicitly suggested in their remarks that Members of the pro-establishment camp were "shielding" MTRCL in the incident by not supporting Dr CHENG Chung-tai's proposal.

Action

56. Dr Fernando CHEUNG said that Members of the pro-establishment camp often used the tactic of "offering big help under the pretext of mild condemnation". Even though they had expressed strong dissatisfaction towards MTRCL's responses in the incident, they refused to render support to the proposed invocation of powers under the P&P Ordinance to appoint a select committee to inquire into the incident. Dr CHEUNG held the view that LegCo was an independent legislature vested with its own statutory powers and its decision to inquire into the incident should be independent of and not contingent upon how the Administration would follow up the incident.

57. Mr AU Nok-hin expressed support for Dr CHENG Chung-tai's proposal. He said that MTRCL had provided its account of the incident bit by bit like "squeezing toothpaste from a tube". While the public would like to know the truth of the incident, he considered that the proposed select committee would provide the best platform to request MTRCL to provide a full account of the incident.

58. Dr Priscilla LEUNG said that it was an indisputable fact that MTRCL's explanations of the incident were unconvincing to the public. She pointed out that in the past, the Administration had set up several commissions of inquiry to inquire into matters of public importance and these commissions achieved good results. These commissions were usually chaired by judges and people with relevant professional experience and credibility were appointed as members. Dr LEUNG further said that if the Administration would set up an independent commission of inquiry to conduct an investigation into the incident, she hoped that the commission to be set up would also be tasked to review whether there was a lack of transparency in the trade practice of the construction industry in respect of the handling of construction irregularities.

59. Mrs Regina IP said that there might be at times when the invocation of powers under the P&P Ordinance to appoint a select committee would be necessary to inquire into matters involving major public interest. However, she considered that if the investigation into the incident was to be conducted by an independent commission of inquiry, with a small membership size, set up by the Administration, it would be more effective than if the investigation was to be conducted by the proposed select committee which was relatively larger in membership size. Furthermore, the investigation conducted by an independent commission of inquiry was impartial and would not favour any party.

Action

Therefore, she would support the Administration to set up an independent commission of inquiry to conduct an investigation into the incident.

60. Mr Alvin YEUNG considered that Members of the pro-establishment camp should not hesitate to invoke the powers under the P&P Ordinance to inquire into the incident, adding that they had supported the appointment of the Select Committee to Study Mr LEUNG Chun-ying's Involvement as a Member of the Jury in the West Kowloon Reclamation Concept Plan Competition and Related Issues in the Fourth LegCo. In his view, the Administration, MTRCL and Hong Kong people were all victims of the incident, and therefore, it was not necessary for Members to worry about the proposed inquiry being too politicized. Besides, invoking the powers under the P&P Ordinance would facilitate the conduct of the proposed inquiry, as the rights of summoned witnesses could be safeguarded.

61. Mr WONG Kwok-kin said that given the importance of public safety, an investigation into the incident was warranted. However, he considered that LegCo was already too politicized to conduct a fair and unbiased inquiry into the incident, and it would be more credible if the investigation was to be conducted by an independent commission of inquiry set up by the Administration. Therefore, he did not support Mr CHENG Chung-tai's proposal. He added that the conduct of inquiries was not an integral part of the duties of a LegCo Member.

62. Mr Charles MOK said that it was incumbent upon Members to monitor the work of the Administration, and therefore, Members should not refrain from appointing the proposed select committee to inquire into the incident even if the Administration might set up an independent commission of inquiry to conduct an investigation into the incident. He further said that he was angered by the fact that since the Fifth LegCo, the Council was unable to invoke the powers under the P&P Ordinance to inquire into any matters which were of public importance, and even worse, following the recent amendments made to RoP in December 2017, it became practically impossible for Members of the pro-democracy camp to propose the establishment of a select committee for the purpose of conducting an inquiry by the presentation of a petition pursuant to RoP 20(6).

Action

63. Mr YUNG Hoi-yan said that she was very concerned about the structural safety of the new platforms of the Hung Hom station. However, while she considered that an inquiry into the incident was warranted, the focus of the inquiry should not be "MTRCL's suspected concealment of the alleged substandard construction works" as proposed by Dr CHENG Chung-tai, and instead, should be about the responsibilities among MTRCL, the main contractor and the subcontractor involved in the incident. Ms YUNG considered it more appropriate for the inquiry to be conducted by an independent commission of inquiry appointed by the Administration and chaired by a judge.

64. Mr IP Kin-yuen considered that a select committee authorized by LegCo to exercise the powers under the P&P Ordinance and a commission of inquiry set up by the Administration could both conduct an inquiry in an effective manner. However, hearings conducted by a commission of inquiry would be held in camera, whereas all hearings of a select committee of LegCo would be held in public, and so the conduct of the inquiry by LegCo would be more transparent to the public. He added that as the Administration had not yet announced whether or not a commission of inquiry would be set up to conduct an investigation into the incident, he would support Dr CHENG Chung-tai's proposal.

65. Dr CHENG Chung-tai said that as the Government was the largest shareholder of MTRCL, even if a commission of inquiry would be set up by the Administration to conduct an investigation into the incident, the public would still cast doubt whether the commission was really independent. In comparison, a select committee authorized by LegCo to exercise the powers under the P&P Ordinance to inquire into the incident would conduct its hearings in public, and so the inquiry would be more transparent to the public. Besides, summoned witnesses would enjoy the immunities and protection under the P&P Ordinance. He added that the responses to the queries raised over the incident given so far by the non-executive Chairman, the Chief Executive Officer and the Projects Director of MTRCL were far from satisfactory. Dr CHENG called on Members' support for his proposal.

66. The Chairman said that given Members' diverse views, she would put to vote the proposal for the HC Chairman to move the motion proposed by Dr Hon CHENG Chung-tai at the Council meeting of 27 June 2018 to seek the Council's authorization for the appointment of a select committee to inquire into the incident of MTRCL's suspected

Action

concealment of the alleged substandard construction works carried out at the new platforms of the Hung Hom station of SCL. The Chairman ordered a division.

67. During the ringing of the voting bell, Mr Abraham SHEK said that he was currently an independent non-executive director of MTRCL, and he would not vote on the question put. He added that he would relay Members' views raised at this meeting to the board of directors of MTRCL.

The following Members voted in favour of the proposal:

Ms Claudia MO, Mr WU Chi-wai, Mr Charles MOK, Mr CHAN Chi-chuen, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Dr Fernando CHEUNG, Dr Helena WONG, Mr IP Kin-yuen, Mr Alvin YEUNG, Mr CHU Hoi-dick, Mr LAM Cheuk-ting, Mr SHIU Ka-chun, Dr Pierre CHAN, Ms Tanya CHAN, Mr HUI Chi-fung, Dr CHENG Chung-tai, Mr KWONG Chun-yu, Mr Jeremy TAM, Mr Gary FAN and Mr AU Nok-hin.
(21 Members)

The following Members voted against the proposal:

Mr Jeffrey LAM, Mr WONG Ting-kwong, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mrs Regina IP, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr CHAN Han-pan, Mr LEUNG Che-cheung, Ms Alice MAK, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr Jimmy NG, Mr HO Kai-ming, Ms YUNG Hoi-yan, Mr CHEUNG Kwok-kwan, Mr LUK Chung-hung, Mr LAU Kwok-fan, Mr Kenneth LAU and Mr Vincent CHENG.
(26 Members)

The following Members abstained from voting:

Mr Michael TIEN and Mr Tony TSE.
(2 Members)

68. The Chairman declared that 21 Members voted for and 26 Members voted against the proposal and two Members abstained from voting. The Chairman declared that the proposal was not supported.

Action

XI. Any other business

69. There being no other business, the meeting ended at 3:48 pm.

Council Business Division 2
Legislative Council Secretariat
14 June 2018