立法會

Legislative Council

LC Paper No. CB(2) 108/08-09

Ref : CB2/H/5/08

House Committee of the Legislative Council

Minutes of the 3rd meeting held in the Legislative Council Chamber at 2:30 pm on Friday, 17 October 2008

Members present:

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)

Hon Fred LI Wah-ming, 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 TAM Yiu-chung, GBS, JP

Hon Abraham SHEK Lai-him, SBS, JP

Hon LI Fung-ying, BBS, JP

Hon Tommy CHEUNG Yu-yan, SBS, JP

Hon Albert CHAN Wai-yip

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, JP

Hon Jeffrey LAM Kin-fung, SBS, JP

Hon Andrew LEUNG Kwan-yuen, SBS, JP

Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung

Hon CHEUNG Hok-ming, SBS, JP

Hon WONG Ting-kwong, BBS

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

Dr Hon LAM Tai-fai, BBS, JP

Hon CHAN Hak-kan

Hon Paul CHAN Mo-po, MH, JP

Hon CHAN Tanya

Dr Hon Priscilla LEUNG Mei-fun

Dr Hon LEUNG Ka-lau

Hon CHEUNG Kwok-che

Hon WONG Sing-chi

Hon WONG Kwok-kin, BBS

Hon WONG Yuk-man

Hon IP Wai-ming, MH

Hon IP Kwok-him, GBS, JP

Hon Mrs Regina IP LAU Suk-yee, GBS, JP

Dr Hon PAN Pey-chyou

Dr Hon Samson TAM Wai-ho, JP

Members absent:

Hon Timothy FOK Tsun-ting, GBS, JP Hon CHAN Kin-por, JP Hon Paul TSE Wai-chun

Clerk in attendance:

Mrs Vivian KAM 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 (Special Duty)

Mr LEE Yu-sung Senior Assistant Legal Adviser 1 Mr Arthur CHEUNG Senior Assistant Legal Adviser 2

Mrs Sharon TONG Principal Council Secretary (Complaints)
Mr Andy LAU Principal Council Secretary (Administration)

Mr Simon WONG Chief Public Information Officer Miss Polly YEUNG Chief Council Secretary (1)5 Miss Odelia LEUNG Chief Council Secretary (2)6 Chief Council Secretary (3)1 Mr Arthur LEUNG Ms Miranda HON Chief Council Secretary (3)3 Ms Clara TAM Assistant Legal Adviser 9 Senior Council Secretary (2)3 Ms Amy YU Ms Alice LEUNG Senior Council Secretary (2)6 Senior Council Secretary (3)1 Miss Lolita SHEK Senior Council Secretary (3)3 Ms Dora WAI Ms Jessica CHAN Senior Council Secretary (3)4 Senior Council Secretary (3)5 Ms Serena CHU Senior Legislative Assistant (2)1 Mr Ringo LEE

Mr Arthur KAN Legislative Assistant (2)7

Action

Before proceeding to the agenda items, <u>the Chairman</u> reminded Members that the policy briefing on the Chief Executive (CE)'s Policy Address for the Panel on Financial Affairs would be held at 4:30 pm in the Chamber.

I. Confirmation of minutes of meetings

- (a) <u>1st meeting held on 8 October 2008</u> (LC Paper No. CB(2) 33/08-09)
- (b) <u>2nd meeting held on 10 October 2008</u> (LC Paper No. CB(2) 34/08-09)
- 2. The two set of minutes were confirmed.

II. Matters arising

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

Frequency and duration of CE's Question and Answer (Q & A) Sessions

3. <u>The Chairman</u> said that she had conveyed to CS the requests from Members for the frequency of CE's Q & A Sessions to be increased to once a month, and the duration of each Session to be extended to two hours. CS had undertaken to convey Members' requests to CE. <u>The Chairman</u> further said that she would report to Members on CE's response.

Proceedings of committee meetings

- 4. In connection with the setting of a time limit by some committees at their meetings for members to raise questions and the officials to respond, the Chairman said that CS had made a request for the committee chairmen concerned to exercise discretion and allow the officials who wished to respond to do so even if the time had expired. The Chairman further said that she would follow up the matter with the chairmen of the 18 Panels and revert to Members if necessary.
- 5. <u>Ms Emily LAU</u>, Chairman of the Finance Committee (FC), said that CS had also raised the matter with her in respect of FC meetings. As the arrangement to be adopted should apply similarly to meetings of FC and other committees, she considered it undesirable for the matter to be followed up separately by the House Committee and FC. She hoped that Members could reach a consensus on the arrangement to be adopted for meetings of all committees concerned.
- 6. Mr Tommy CHEUNG said that apart from the chairmen of the 18 Panels, other Members should also be consulted as they might be elected as chairmen of other committees or Panels in future legislative sessions. He further said that the Chairman should convey to CS Members' view that officials attending committee meetings should answer members' questions directly and not go round in circles which in turn was a waste of time. When he chaired meetings, he would normally exercise discretion in allowing officials who wished to respond to do so for a short while even if the time had expired. However, he would discontinue their response should they be found not answering members' questions.
- 7. <u>The Chairman</u> proposed that she would follow up the matter with the chairmen of the 18 Panels and other committees, and would revert to the House Committee if necessary. <u>Members</u> agreed.

III. Business arising from previous Council meetings

Legal Service Division report on subsidiary legislation gazetted on 10 October 2008 and tabled in Council on 15 October 2008

(LC Paper No. LS 4/08-09)

- 8. <u>The Chairman</u> said that only one item of subsidiary legislation, i.e. the Air Navigation (Hong Kong) Order 1995 (Amendment) Order 2008 (Commencement) Notice, was gazetted on 10 October 2008 and tabled in the Council on 15 October 2008.
- 9. Members did not raise any query on the Commencement Notice.
- 10. <u>The Chairman</u> reminded Members that the deadline for amending the Commencement Notice was 12 November 2008, or 3 December 2008 if extended by resolution.

IV. Further business for the Council meeting on 22 October 2008

Questions

(LC Paper No. CB(3) 50/08-09)

11. <u>The Chairman</u> said that Mr LAU Kong-wah had replaced his oral question.

V. Business for the Council meeting of 29, 30 and 31 October 2008

(a) **Questions**

(LC Paper No. CB(3) 51/08-09)

12. <u>The Chairman</u> said that as at the time of the House Committee meeting, a total of 19 written questions had been scheduled for the Council meeting, and there remained one slot.

(b) Members' motion

Motion of Thanks

(Director of Administration's letter dated 15 October 2008 on "The Debate on the Motion of Thanks on the 2008-2009 Policy Address: Proposed Grouping of Policy Areas" (LC Paper No. CB(2)74/08-09(01)))

- 13. <u>The Chairman</u> referred Members to the letter of the Director of Administration dated 15 October 2008 on the proposed grouping of policy areas for the five debate sessions. <u>Members</u> agreed with the proposed grouping.
- 14. <u>The Chairman</u> further said that should there be any change in the final arrangements in response to Members' speeches, the Administration would advise the President before the public officers spoke at the relevant sessions.
- 15. <u>Ms Emily LAU</u> said that after Members had spoken in each debate session, there would be a 10-minute suspension of the meeting for the designated public officers to co-ordinate their response. She reminded Members that a quorum had to be present when the Council meeting was resumed after each of the suspension.

VI. Position on Bills Committees and subcommittees

(LC Paper No. CB(2) 35/08-09)

16. <u>The Chairman</u> said that there were five subcommittees under the House Committee in action.

VII. Appointment of subcommittees on policy issues

(LC Paper No. CB(2) 51/08-09)

- 17. <u>The Chairman</u> invited Members to note the latest position of subcommittees on policy issues proposed for appointment as stated in paragraph 3 of the paper. <u>The Chairman</u> further said that under the existing arrangements, the maximum number of subcommittees under the House Committee and Panels on policy issues and Council business other than subsidiary legislation, other instruments and appointment or removal of senior judges that might be in operation at any one time was eight.
- 18. <u>Mr James TO</u> said that Members belonging to the Democratic Party were concerned about the long duration of operation of some subcommittees on policy issues in the past as it would affect the activation of subcommittees on the waiting list. He considered that subcommittees should review the progress of their work, say, one year after their commencement to examine the need to continue operation.

- 19. <u>The Chairman</u> said that similar concerns had been raised during past discussions on the operation of subcommittees. To address such concerns, the House Rules had provided that the terms of reference of a subcommittee should be issue-specific or project-specific, and it should complete its work within 12 months of its commencement.
- 20. Mr James TO said that there were occasions where a subcommittee did not hold meetings for several months while awaiting the Administration's response on certain issues. He considered such situation undesirable. While noting that the matters under study by the subcommittee might be of great importance, he considered it necessary to closely monitor the progress of subcommittees.
- 21. <u>Mr WONG Kwok-kin</u> suggested that the proposed Subcommittee on Review of the Urban Renewal Strategy listed in Appendix I to the paper be appointed under the House Committee instead of the Panel on Development, as non-Panel members might be interested to join it.
- 22. The Chairman explained that the purpose of the paper was to provide Members with an overview of the latest position on the number of subcommittees on policy issues proposed for appointment. Matters concerning the appointment of the proposed subcommittees should be dealt with by the Panels concerned.
- 23. Mr LEE Wing-tat said that the issue regarding the maximum number of subcommittees on policy issues in operation had been discussed in the Third LegCo. While recognising that the LegCo Secretariat's resources were not unlimited, he considered it necessary to increase the maximum number of such subcommittees from eight to 12. He was concerned that some subcommittees on the waiting list could not be activated during the Third LegCo owing to the long duration of operation of certain subcommittees. In his view, more subcommittees could be serviced by the Secretariat if the duration of their operation was shortened. He also hoped that the President would honour his pledge in presidency election to seek additional resources for the Secretariat to support the work of Members.
- 24. The Chairman said that in principle, the maximum number of such subcommittees was eight. The House Committee might activate subcommittees on the waiting list even after the maximum number of eight had been reached, after having considered the relevant factors stated in rule 26(b) of the House Rules. She requested the Secretariat to explore how far the present arrangements could be improved after reviewing its resources.

- 25. Dr Margaret NG considered that the issues regarding the maximum number of subcommittees in operation and the subcommittees to be appointed She noted with concern the proposed appointment of three subcommittees under the Panel on Development. She considered it necessary to work out an agreed arrangement concerning the maximum number of subcommittees under a Panel that could be appointed and activated. sharing Mr LEE Wing-tat's view on the need to increase the resources for the LegCo Secretariat, she did not agree with the need for a quota of subcommittees in operation. She stressed that LegCo should act in response to public concern, and its work should not be inhibited by the artificial setting of a quota for subcommittees. Even if the LegCo Secretariat was not allocated with the required resources by the Administration to support the work of Members, The Legislative Council Commission should formulate a deficit budget for the purpose.
- 26. The Chairman considered it inappropriate to discuss the matter in-depth at the meeting without the relevant information concerning the Secretariat's resources. She suggested that the matter be discussed after the relevant information was available. She also suggested that to facilitate Members' discussion, the Secretariat should make proposals concerning the arrangement on the number of subcommittees under a Panel that could be in operation at any one time.
- 27. <u>Ms Emily LAU</u> agreed with the Chairman's view. She said that the Secretariat should state clearly the resources required to support the work of varying number of subcommittees on policy issues.
- 28. <u>Mr LEUNG Kwok-hung</u> said that the responsibility to seek more resources for the Secretariat should rest with the President, in honour of his pledge in the presidency election.
- 29. <u>Dr Margaret NG</u> clarified that it should not be the responsibility of the President but The Legislative Council Commission to seek more resources for the Secretariat. She said that The Legislative Council Commission had emphasized time and again that the LegCo Secretariat was not an administrative arm of the Government, and LegCo would do what it should even without the additional resources.
- 30. In response to the Chairman, <u>Secretary General</u> said that the Secretariat would provide a paper for Members' discussion.
- 31. <u>Members</u> agreed to discuss the subject again when the relevant information was available.

VIII. Election of Members for appointment to the Public Accounts Committee, Committee on Members' Interests and Committee on Rules of Procedure (LC Paper No. CB(3) 17/08-09 issued vide LC Paper No. CB(2) 6/08-09 dated 9 October 2008)

(a) <u>Election of seven Members to the Public Accounts Committee (PAC)</u>

32. <u>The Chairman</u> invited Members to make nominations. The following Members were nominated and elected for appointment to PAC -

Dr Philip WONG Yu-hong

Mr Andrew CHENG

Mr Abraham SHEK

Mr Alan LEONG

Ms Starry LEE

Mr Paul CHAN

Mr WONG Yuk-man

(b) <u>Election of seven Members to the Committee on Members' Interests</u> (CMI)

33. The following Members were nominated and elected for appointment to CMI -

Mrs Sophie LEUNG

Mr WONG Yung-kan

Ms Emily LAU

Mr Abraham SHEK

Mr Alan LEONG

Mr Paul CHAN

Mr WONG Sing-chi

(c) Election of 12 Members to the Committee on Rules of Procedure (CRoP)

34. The following Members were nominated and elected for appointment to CRoP -

Mr Albert HO

Dr Margaret NG

Mrs Sophie LEUNG

Ms Emily LAU

Mr TAM Yiu-chung

Mr Tommy CHEUNG

Mr Ronny TONG

Dr Priscilla LEUNG Mr WONG Yuk-man Mr IP Wai-ming Mr IP Kwok-him Mrs Regina IP

35. The Chairman suspended the meeting for about 15 minutes to allow the Members of the three committees to elect among themselves their Chairmen and Deputy Chairmen.

(The meeting was suspended at 2:54 pm and resumed at 3:08 pm.)

- 36. The Chairman informed Members that -
 - (a) Dr Philip WONG and Mr Paul CHAN were elected Chairman and Deputy Chairman of PAC respectively;
 - (b) Mrs Sophie LEUNG and Ms Emily LAU were elected Chairman and Deputy Chairman of CMI respectively; and
 - (c) Mr TAM Yiu-chung and Dr Margaret NG were elected Chairman and Deputy Chairman of CRoP respectively.
- 37. <u>The Chairman</u> said that the membership of the three committees would be submitted to the President for appointment.

IX. Election of Members to the Parliamentary Liaison Subcommittee

(Paragraphs 45 to 52 of the minutes of the 2nd House Committee meeting on 10 October 2008)

(LC Paper No. CB(3) 16/08-09 issued vide LC Paper No. CB(2) 6/08-09 dated 9 October 2008)

- 38. <u>The Chairman</u> said that at the last House Committee meeting, Members agreed that it was not necessary to set a limit on the membership size of the Subcommittee. She invited Members to join the Subcommittee.
- 39. The following 10 Members joined the Subcommittee -

Mr Fred LI Mr James TO Mrs Sophie LEUNG Ms Emily LAU Mr Abraham SHEK Prof Patrick LAU Ms Cyd HO Mr CHAN Hak-kan Miss CHAN Tanya Mrs Regina IP

- 40. <u>The Chairman</u> said that the Subcommittee would comprise the above 10 Members and no further circular for membership would be issued by the LegCo Secretariat.
- X. Nomination and election of Members of the Legislative Council to advisory bodies and governing bodies of educational institutions

(LC Paper No. CB(2) 4/08-09 issued vide LC Paper No. CB(2) 6/08-09 dated 9 October 2008)

- (a) Two Members to serve on the Disaster Relief Fund Advisory Committee
- 41. Mrs Sophie LEUNG LAU Yau-fun and Mr WONG Sing-chi were nominated and elected to serve on the Disaster Relief Fund Advisory Committee.
- (b) One Member to serve on the Po Leung Kuk Advisory Board
- 42. Mr WONG Ting-kwong was nominated and elected to serve on the Po Leung Kuk Advisory Board.
- (c) One Member to serve on the Tung Wah Group of Hospitals Advisory Board
- 43. Ms Cyd HO was nominated and elected to serve on the Tung Wah Group of Hospitals Advisory Board.
- (d) Three Members to serve on the Council of The Chinese University of Hong Kong
- 44. Mr Tommy CHEUNG, Mr CHAN Hak-kan, Mr WONG Yuk-man and Dr LEUNG Ka-lau were nominated.
- 45. As the number of nominations exceeded that required for appointment, the Chairman ordered a vote by a show of hands. The Chairman reminded Members that they could only vote thrice at the most. The outcome of the vote was as follows -

Mr Tommy CHEUNG 37 votes
Mr CHAN Hak-kan 36 votes
Mr WONG Yuk-man 34 votes
Dr LEUNG Ka-lau 9 votes

46. The Chairman declared Mr Tommy CHEUNG, Mr CHAN Hak-kan and Mr WONG Yuk-man elected to serve on the Council of The Chinese University of Hong Kong.

(e) Five Members to serve on the Court of the University of Hong Kong

47. Mr LEE Cheuk-yan, Mr James TO, Mr Abraham SHEK, Mr IP Kwok-him and Mrs Regina IP were nominated and elected to serve on the Court of the University of Hong Kong.

XI. Meetings-cum-luncheons with District Council members

(LC Paper No. CB(2) 36/08-09)

- 48. <u>The Chairman</u> sought Members' views on the proposed arrangements set out in paragraphs 4 and 5 of the paper for holding meetings-cum-luncheons with members of District Councils (DCs) in the Fourth LegCo.
- 49. <u>The Chairman</u> said that as in the last term, it was proposed that Members continued to hold one meeting with each DC within a legislative session. Under this arrangement, at least three complete rounds of meetings with members of the 18 DCs would be held before their term ended on 31 December 2011.
- 50. The Chairman added that Members would be further consulted on the arrangements for meeting with the DCs in late 2011 as well as with members of the fourth term DCs starting from January 2012 when the timing for moving into the new LegCo Complex was clear.
- 51. <u>Members</u> agreed to the proposed arrangements.
- 52. <u>The Chairman</u> said that the Secretariat would contact the 18 DCs through the Home Affairs Department to make arrangements for the meetings-cum-luncheons.

XII. Meetings between Legislative Council Members and Heung Yee Kuk Councillors

(LC Paper No. CB(2) 37/08-09)

- 53. <u>The Chairman</u> sought Members' views on the proposed arrangements set out in paragraph 3 of the paper for holding meetings with Councillors of Heung YEE Kuk in the Fourth LegCo.
- 54. The Chairman said that as in the past, it was proposed that one to two meetings be held for Members to meet with Heung Yee Kuk Councillors in each legislative session to enhance communication and to exchange views on matters of mutual interest and concern.
- 55. Members agreed to the proposed arrangements.
- 56. <u>The Chairman</u> said that the LegCo Secretariat would proceed to organize the first meeting with Heung Yee Kuk in the current term.

XIII. Proposal to set up a subcommittee under the House Committee to follow up Members' remuneration and operating expenses reimbursement (LC Paper No. AS 44/08-09)

- 57. The Chairman proposed that a subcommittee be formed under the House Committee to continue to study issues relating to Members' remuneration and operating expenses reimbursement, including outstanding issues from the Third LegCo as detailed in paragraphs 6 to 16 of the paper. Members agreed. The following Members agreed to join: Mr CHEUNG Man-kwong, Ms Emily LAU, Mr WONG Ting-kwong, Prof Patrick LAU (as advised by Ir Dr Raymond HO), Miss Tanya CHAN, Mr IP Kwok-him and Mrs Regina IP.
- 58. <u>The Chairman</u> said that the LegCo Secretariat would issue a circular to invite Members to join the Subcommittee.

XIV. Proposal to appoint a subcommittee to study issues arising from Lehman Brothers-related minibonds and structured financial products

(a) <u>Appointment of the subcommittee</u> (LC Paper No. CB(1) 35/08-09)

59. <u>The Chairman</u> said that at the special House Committee meeting on 13 October 2008, Members had expressed support for a subcommittee to be set up under the House Committee to study issues arising from Lehman Brothers-related minibonds and structured financial products.

- 60. <u>Members</u> endorsed the appointment of the subcommittee with the proposed terms of reference, workplan and time frame as detailed in paragraphs 5 to 8 of the paper. The following Members agreed to join: Mr Albert HO, Ir Dr Raymond HO, Dr Margaret NG, Mr James TO, Mr CHAN Kam-lam, Ms Emily LAU, Mr Abraham SHEK (as advised by Ir Dr Raymond HO), Ms Audrey EU, Mr LEUNG Kwok-hung, Mr WONG Ting-kwong, Mr Ronny TONG, Mr CHIM Pui-chung, Mr KAM Nai-wai, Ms Starry LEE, Mr Paul CHAN, Miss Tanya CHAN, Dr Priscilla LEUNG (as advised by Ir Dr Raymond HO), Mr IP Wai-ming and Mrs Regina IP.
- 61. <u>The Chairman</u> said that the LegCo Secretariat would issue a circular to invite Members to join the Subcommittee.
- (b) Proposal for the subcommittee to exercise the powers conferred by section 9(1) of the Legislative Council (Powers and Privileges)
 Ordinance (Cap. 382)

(Joint letter dated 14 October 2008 from Hon James TO Kun-sun and Hon KAM Nai-wai (LC Paper No. CB(2) 38/08-09(01))

62. <u>The Chairman</u> informed Members that to ensure precise recording of Members' views on the issue of Lehman Brothers-related minibonds, verbatim transcript would be produced for the part regarding the proposal for the subcommittee to exercise the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance (Cap. 382). The verbatim transcript of the discussions is in the **Appendix**.

XV. Proposal to appoint a select committee to investigate the case of Mr LEUNG Chin-man

(Letter dated 11 October 2008 from Hon LEE Wing-tat to the Chairman of the House Committee (LC Paper No. CB(2) 38/08-09(02))

63. Mr LEE Wing-tat referred Members to his letter dated 11 October 2008 proposing the appointment of a select committee to inquire into the case of Mr LEUNG Chin-man. He said that in view of the wide public concern over the appointment of Mr LEUNG, who had served as the Permanent Secretary for Housing, Planning and Lands (Housing) and Director of Housing, by New World China Lands Limited, he considered it necessary for LegCo to appoint a select committee to inquire into the processing of Mr LEUNG's application for post-service work by the relevant policy bureaux and the Advisory Committee on Post-service Employment of Civil Servants. Mr LEE further said that after the commencement of the Fourth LegCo, he had sought the view of Members on the proposed appointment of a select committee. Many Members had expressed support for the proposal, and some Members had indicated objection. He appealed to Members to support the appointment of a select committee.

He added that subject to Members' support for his proposal, a subcommittee should be set up to undertake the necessary preparatory work, including drawing up the terms of reference of the select committee and making proposals on its membership.

- 64. Mr Tommy CHEUNG said that Members belonging to the Liberal Party supported the proposed appointment of a select committee to investigate the case of Mr LEUNG Chin-man.
- 65. Mr IP Kwok-him said that Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong supported the proposed appointment of a select committee.
- 66. Mr WONG Kwok-kin said that Members belonging to the Hong Kong Federation of Trade Unions also supported the proposed appointment of a select committee.
- 67. Mr Abraham SHEK said that Members belonging to the Alliance did not support the appointment of a select committee.
- 68. <u>Ms Audrey EU</u> said that Members belonging to the Civic Party supported the proposed appointment of a select committee.
- 69. <u>The Chairman</u> put to vote the proposal that a select committee be appointed by LegCo to inquire into the case of Mr LEUNG Chin-man. The result was: 40 Members voted in favour of and 4 Members voted against the proposal, and no Member abstained. The proposal was supported.
- 70. The Chairman proposed that a subcommittee be formed to undertake the necessary preparatory work. Members agreed. The following Members agreed to join: Ir Dr Raymond HO, Dr Margaret NG, Mr James TO, Mrs Sophie LEUNG, Mr LAU Kong-wah, Ms Emily LAU, Mr Abraham SHEK, Mr LEE Wing-tat, Mr LEUNG Kwok-hung, Mr Ronny TONG, Prof Patrick LAU, Ms Cyd HO, Miss CHAN Tanya, Mr WONG Yuk-man, Mr IP Wai-ming and Dr PAN Pey-chyou.
- 71. <u>The Chairman</u> said that the LegCo Secretariat would issue a circular to invite Members to join the Subcommittee.

XVI. Any other business

72. There being no other business, the meeting ended at 4:26 pm.

Council Business Division 2
<u>Legislative Council Secretariat</u>
23 October 2008

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主席:我現在把時間交給涂謹申議員,讓他介紹一下他的建議。

涂謹申議員:是。主席、各位同事,我知道很多同事在星期一開了8小時會議。其實,如果大家開過那8小時會議後,我相信都有一個感覺,便是有很多問題是沒有回答的,尤其是在銀行方面。如果看看今次擬議的主要研究範圍,即附錄所載,即在我們成立委員會後,便採用這些研究範圍。如果我們要全面瞭解和掌握這些有關問題,包括規管架構,他們之間的相互關係,我舉例,為了要收很多佣金或因銀行內部有一些quota,需要迫前線員工怎樣銷售,或當中可能有一些銷售文件、內部的training(即訓練)等,要他們怎樣銷售等等,為使我們有全面的瞭解,我相信是需要有這樣的特權法,能夠賦權傳召證人和要求提交文件,才能令有關方面可以全面提供這些資料。

第二點,我覺得,能夠有特權法的權力,亦可幫助出席的人減少一些心理的障礙,為甚麼呢?因為他們跟銀行有很多不同方面的關係,有一部分可能有一些所謂保密的關係,有些部分可能不是很清晰,不知道是否可以完全向第三者披露。但是,當小組有了特權法的權力和傳召權,該等出席的證人便必須全面回答,亦會免除他們顧慮被其他的第三者,例如被人控告,不論民事或會否有其他的索償,這樣,他便可以暢所欲言。亦在一些情況之下,可能有些上司下屬等的關係,他便可以暢所欲言。亦在一些情況之下,可能有些上司下屬等的關係,他亦會有些顧忌,但當他被傳召的時候,他便沒有辦法不出席,他一定要出席。而且,不論是人情還是道理,上司也不能怪他,因為沒有辦法,他來立法會是被傳召的,必須說真話,必須全面披露,必須提交所有文件。所以,在考慮各方面來說,如果我們真的為了公眾利益要全面掌握情況,全面瞭解的話,能夠有這個權力去傳召證人和要求提交文件,其實是必需的。

所以,我在兩個很主要基礎的考慮下,我希望大家同事能夠支持 我們的建議。當然,我不是說當我們有了特權法賦予的權力後,在每 一次會議、對每一個證人都必須使用這個權力,不一定的。但是,這 個權力本身,最低限度可以令有關的委員會成員有一個全面掌握的能 力和權力。這才能令他們可以做起事來,為了公眾的利益,作全面考 慮,例如這件事怎樣發生,怎樣可以給更好的意見,尤其是一些牽涉 到很微妙的保密關係,或者是政府一些官員之間不同角色的扮演,他 們都必須全面披露,而不能夠因為人情、法律或其他種種的事,而妨 礙了委員會全面瞭解真相。

主席:好,是否有討論?張宇人議員。

張宇人議員:主席,我聽了涂謹申議員所說的,但以我的記憶所及,似乎我們在內務委員會轄下成立的小組,從未有即時賦予這個權力。 我想提議,今天很多人舉手加入小組委員會,在成立這個內務委員會 轄下的小組時,可否讓我們討論一下小組的職權範圍?同時,我又覺 得,如果它要傳召一些人,而他們不肯出席,或要索取甚麼文件,他 們不肯交出,它覺得有需要使用這個權力時,到時再回來討論,會較 現時在這個時間作決定更好,既不知道職權範圍,亦不知道究竟是否 沒有這個特權,他們便做不到這件事。我相信,如果有這麼多同事加 入,而小組又覺得有需要的話,我們可否遲一步才考慮,而不是今天 去考慮,因為以往亦沒有先例。多謝主席。

主席:是否有其他同事有意見?甘乃威議員。

甘乃威議員:多謝主席。剛才張宇人議員提到的事,如果大家看過, 在星期一,我們立法會這個馬拉松內務委員會會議,其實已經是一個 很好的工作示範,讓大家看到,銀行來到的時候,絕大部分,不要說 全部了,所說的都是話與客戶同坐一條船,實際上卻不是這樣的情況。我們希望清楚知道,例如當時我亦提過一個問題,便是究竟這些銀行本身有否迫前線的員工"交數",現在很明顯,是一個系統性的問題。其實,今次的事件牽涉到數以萬計的人,民主黨收到的投訴,現在已經接近6000宗,金管局的投訴數字超過一萬宗。在這麼廣泛、嚴重的情況下,銀行業界來到立法會,我們問一個很簡單的問題,銀行也不願意作答。如果我們不引用權力及特權法,不能使銀行提交一些資料。其實,我們很久以前已經問銀行,要求它們提供怎樣教導前線同事的一些銷售指引給我們參閱,但沒有一間銀行理會我們。我覺得,如果我們要徹查真相,能夠有助於現在的苦主去瞭解真相,令公眾瞭解真相,在過去那次馬拉松內務委員會會議,其實大家都看到,情況是有需要這樣做。

我想,如果在座的同事再用任何理由令立法會不能夠引用權力及特權法,只會令我們立法會蒙羞。大家看到,不單只苦主,公眾的輿論,大部分的市民,都是眾口一詞,這事件不是這麼簡單的事。大家都記得,昨天特首說到,他也認為迷你債券不算是債券,為甚麼可以在香港售賣呢?不是債券,而普遍全香港的零售銀行,九成九都在賣一些不是債券的債券。這件事還可以在香港發生,而我們的同事仍然用這樣的態度,會令我們香港市民很失望。我希望,今天在座的同事,回頭是岸,不要再用任何理由阻礙立法會扮演我們應該扮演的角色,令到這些苦主,令到香港市民瞭解真相,是非常重要的。多謝主席。

主席:吳靄儀議員。

吳靄儀議員:主席,本會在2003年後便沒有成立專責委員會,但事實上,談到先例,其實我們也不是有很多先例。但是,從法例來看,《立法會(權力及特權)條例》所賦予傳召證人等的權力,是可以一次過為一件事傳召一個人及取得一份文件而賦予,亦可以整體由開始便賦予給某一個委員會。這個委員會可以是一個專責委員會,亦可以是內務委

員會的小組委員會,任何一個委員會也可以的。所以,法律上我們是沒有障礙的。

然而,我想回應張宇人的說法,便是如果要到這個小組進行工作的過程中,待小組本身覺得,在某件事上需要有這樣的權力才去做,我們在程序上是會有很多阻滯,因為這權力要在立法會會議上通過,才能賦予給任何一個委員會。所以,主席,如果我們現在已經看得很清楚,知道這個小組委員會會做些甚麼,我的看法是,為程序的順利,應該一開始便去做,勝過其後才去做。而且,這個小組的成員只是小組的成員,最終也是要由整個內會去討論,探討究竟應否讓小組有這樣的權力,所以我覺得,應該由今天,由開始便解決這件事,是一個比較理想的做法。

主席:葉劉淑儀議員。

葉劉淑儀議員:多謝主席。我對於成立專責調查委員會或授權小組委員會行使立法會特權及權力,我素來都有點保留。我想趁這個機會解釋一下,因為星期一的馬拉松會議,我也有碰到一些雷曼的苦主,他們問我,葉太,為甚麼你不支持呢?我也想趁這個機會解釋一下。我聽了很多同事說,希望有了這些Ps and Ps(權力及特權),能有助"打爛沙盤問到篤"、水落石出,盡量找多些資料。但根據我過往的經驗和瞭解政府的實情,例如上次的調查學術自由的委員會,我知道一成立這類委員會,無論政府也好,銀行也好,一定請律師的。在聘請律師後,他要負法律責任的,他來答問題,不一定會多給一些資料。議員懂得問,他們都懂得答;相反,可能因為面對這麼大的權力,他們更謹慎,我們不一定可以更快得到更多的資料。相反,例如上星期五的內務委員會會議,說過星期一會召開緊急會議,我們也看到銀行家很快便到來,傳媒也留意到,蔚為奇觀,這麼多第一、二把手的banker一齊到來。換句話說,我看到目前,我們未採用Ps and Ps,其實已經給政府及銀行界有相當壓力。我擔心的是,如果行使Ps and Ps,還令它們擔心自

己要負上法律責任,人人也聘請很多律師來為自己作定答案,因而反 而幫不到市民。

主席:梁國雄議員。

梁國雄議員:主席,我上次說,誰阻礙行使P and P的,便是認賊作父。 其實,我們在星期一的會議上看到,我問任志剛,他只是馬虎回答, 還說要問一問曾俊華,看看可否公開資料。他們兩人不知搞甚麼?如 果一位政府司長要請律師回答,固然可以,對嗎?我們以後可以在大 律師公會選擇數位律師擔任政府的首長。其實,他們有一個問責的責 任,這便是他們的誠信。如果政府可以請律師辦理,便可以派黃仁龍 到來。那些banker也一樣,我們立法會有甚麼權力呢?是沒有甚麼特別 權力,只是不給政府撥款,而罷免特首、官員也是不行的,經常都是 不夠票的。今天我們只不過拿一個平台而已,便是歸還60位議員 — 不包括曾鈺成在內,當然他是沒有分兒的 —— 即59位議員讓社會看 到公道,我們無論是小圈子選舉,還是直選的議員,都令市民可以看 到我們提問。如果我們差勁,便沒有辦法了,我們做議員表現差,問 不到實情,但我看不到有甚麼理由不使用這項權力。問題是:第一, 銀行是最惡的,銀行在私有產權之下,為何要把業務計劃告知大家? 與大家何關?那麼,它們告知任志剛,而任志剛也說先知先覺,由2006 年要它們開始處理,一直處理到2008年出事。任志剛的statement已說 明,銀行家不理會他,否則便是他說謊。如果他說謊,便可以傳召任 志剛到來查問。我當天問他,由2003年開始,特區政府告知IMF(國際 貨幣基金組織),我們有一個聯合委員會監察一切,亦監察場內交易, 並一直監察至結構產品。他們做過甚麼工作?我問任志剛,但他不回 答,如果曾俊華回答,他便回答。這是甚麼的態度?如果我們有《立 法會(權力及特權)條例》所賦予的權力,他可以這樣做嗎?他是不可以 這樣做的,即使聘請100個律師也是沒用的。

因此,如果今天大家還在說用P and P,即權力及特權,是對市民沒有好處的,我真的匪夷所思。老實說,我已聽到厭的一句說話是,不單要公正,公正更要大家能看得到的。我想請問大家,有甚麼勝過啟動《立法會(權力及特權)條例》來問一些無辜的人,讓他們在這裏剖白自己呢?我假設所有官員都是對的,立法會議員好像我這類人一是傻人,故意搞事的,那麼便讓他在這裏辯白,對誰沒有好處呢?請看看特首讀錯字,便立即知道讀錯字,是沒有得避開的。如果關上門,又怎會知道,對嗎?所以這是一個問題。

我真的很想各位議員記住自己競選時所說的話。其實,香港立法會,一個如此的立法會,唯一的權力便是制衡政府。我自己在上面示威,是要坐監,是犯了甚麼藐視立法會罪行,其中一項罪行是(我在法庭學識的),傳召某人到來,而該人如不提供文件或口供,每天是要罰1萬元及被監禁的,我又不信他們夠膽坐監。所以,唯一對付這些不願說話的壞人,或許令一些被立法會議員欺壓的好人,取回一個清白,便是這些東西了。

我自己覺得,我上次說那些不願採用《立法會(權力及特權)條例》的人,是助紂為虐及認賊作父,我覺得我今天說得更為正確。如果今天還是如此,他便是認賊作爺,當賊是爺,這是不行的。我呼籲所有議員,我看過很多立法會選舉的辯論,人人都誓神劈願說,雷打我又為人民,閃電劈下來又是為了人民。今天便是你們做事的時候了,今天如果不做事,以後不要出來再選舉,不要再欺騙市民,收聲,我自己。

主席:湯家驊議員。

湯家驊議員:主席,我覺得我們最少有3個理由,為何我們需要使用這個特權法。第一個理由是很實際的,關乎這事件的,我相信所有坐在議事廳的同事,如果過去數個星期有協助苦主會見銀行代表,他們也

說得出所遇到的種種困難。老實說,真的,我相信民建聯也有協助, 其他政黨也有,但自由黨或許沒有,民主黨肯定有,我們黨也有。我 們得到的結果都是一樣的,老實說,見他們真的不得要領,我覺得有 這項權力是必須的。大家也可以看到,星期一也有很多行銀行代表到 來立法會,有多少位代表願意在議事廳回答問題呢?照我所知,是絕 無僅有。坐在議事廳整天,大家問到甚麼資料呢?是問不到資料的。 所以,如果我們沒有這項權力,我覺得倒不如不調查了。

但是,我覺得還有兩個更大的理由。第二個理由,其實,我們這個議會太少行使這項權力了,因為如果我們多使用這項權力,其實際結果是會令我們無須使用這項權力的,因為每次當我們要徹查一些事件時,當事人知道其實不要緊的,到了立法會投票,人人也會反對的,永遠也用不到,由2003年至今也不曾使用,又何須協助你們、何須提問甚麼便回答甚麼,根本上無須理會你們。反而,如果我們有一兩個例子,真正下定決心徹查一件事,真的使用這些權力的話,下次如果有這種情況時,老實說,他們便會考慮不如幫幫忙,在外間解決問題,無須被立法會真的投票傳召,運用權力迫使要交出資料。因此,我覺得這項權力是有需要使用的,不應把它作為永遠不用的一項紙上談兵的權力。

第三個理由我覺得是更大的,主席,為何市民對立法會的期望這麼低呢?為何對我們的評價這麼低呢?很多市民也說這個是"口水會",有些時候我也同意,我們只得一個講字而已。每一次真正要做實事時,必然有些理由的,有些就說今次暫不使用,遲些才算,又說有其他人正在進行調查,無須現時進行調查,一定有些理由的。結果,每一次我們需要做實事,徹查一件事時,永遠也不能成功的。請大家想一想,市民對我們的期望,有甚麼辦法不是這麼低呢?

因此,我覺得有這項權力其實會令立法會的威信建立於市民的眼中。我們真正做實事,不要只得一個講字,不要只是欺騙市民,我絕對支持民主黨今次提出的提議。我不會好像梁國雄所說,反對這項提

議的所有同事,都是認賊作父的,我知未到達這個地步,但我肯定他們真的有需要向香港市民交代,這是一定的。

主席:何秀蘭議員。

何秀蘭議員:多謝主席。立法會是有這項權力的,當然,我們要用得很謹慎,但是如果有權而不運用,是另一種失職。今次,我覺得用這項權力是非常恰可的。當然,我們傳召銀行到來,它們當然有律師,小市民正因鬥不過它們的律師,因而在外面解決不到。如果我們因為銀行有律師到來,連立法會也不幫小市民出頭,那麼真的找誰為他們做事呢?我們這裏正是有很多法律界的人士,議會的職責已經可以幫小市民做事,所以這是一個很恰當的平台。此外,我們今次是要找出真相,不單只是幫助今次受害的一班苦主,還會找到真相,避免同樣的事情繼續發生。我們上次舉行的會議也看到銀行不回答,我們問銀行會否威逼或利誘前線職員去做違規的事,也沒有銀行代表肯回答。

但是,如果我們用這項《立法會(權力及特權)條例》,便可以傳召它們的僱員來。僱員亦因為有一個法律責任,敢在此說話了。但如果我們不用《立法會(權力及特權)條例》,即使傳召僱員到來,他們也會一言不發,甚至不敢到來,因為他們沒有這個責任要到來。所以,如果我們不行使這權力,就未必尋找真相。我是很支持民主黨的建議,多謝主席。

主席:好,現時是第二輪發言了。涂謹申議員,然後劉慧卿議員。劉 慧卿議員是第一次發言,讓劉慧卿議員先發言。

劉慧卿議員:主席,我是支持民主黨的建議的。主席,我們剛才成立了數個委員會。如果是政府帳目委員會或議員個人利益監察委員會,

它們已有這些權力了,要用的時候,便可以行使。我們自己無端設下 一些關卡,其他委員會要處理這問題,讓一些不願做事的人阻礙。我 覺得這項安排真的很離譜,大家選得到入議會擔任議員,也有一項如 此的法例,我們的委員會應該有這些權力,無須每次好像不知求甚麼 般來求。此外,很多市民真的非常憤怒,他們覺得有些議員以往承諾 很多事,說願意協助這樣和那樣,當進入立法會後,真的要出力幫忙, 就不願意了。現時有些同事亦說,政府瘋狂地四處致電,四處拉票, 也不是拉票,一如向某些議員發出命令,要求他們不要支持。我在上 一次選舉時,也是這樣說,我覺得當局和西環不要介入立法會的事務。 我希望各位同事,不要理會這些人所給予的壓力,你們又不是靠他們 過活,或許你們是靠他們過活的,我不知道的。總之,我覺得他們很 離譜,我希望大家尊重立法會自己的威信。我們其實無論那個委員會, 大家同事坐在一起,大多數人認為應該,便可以做,不是在這裏。我 真的覺得有些公務員是不喜歡的,主席,但我希望公務員明白,我們 想秉公辦理調查一些事而已,也是很公道地做事。我支持民主黨這項 建議。

主席:梁耀忠議員。

梁耀忠議員:主席,我都是支持涂謹申議員所提出有關《立法會(權力及特權)條例》的觀點,我特別覺得葉劉淑儀的說法及憂慮不是很恰當的。為甚麼這樣說呢?我們看到的例子是星期一的馬拉松會議,如果我們不用這項《立法會(權力及特權)條例》的話,他們便問而不答。好了,葉劉淑儀說,如果用這項權力時,他們便會聘請律師來,其實情況都會一樣的,用與不用也是一樣的。既然如此,我們為何不在要用時取得一些資料,而他們不能不向我們提供,以協助同事進行研究及調查。在這方面我覺得是有幫助的,實際上是有機會,讓我們有權力使用時能得到一些資料,以往是不能得到的,這樣才會較容易處理這事。

因此,我看不到為甚麼不去做。我剛才聽到其他同事的發言,並 沒有具體解釋使用這項權力有甚麼不好,我聽不到,唯一聽到較為清 楚的是葉劉淑儀議員所說,恐怕他們如果答不到問題,會請律師回答。 其實,即使不使用這項權力,他們都是不答的,但問題是我們可以索 取文件,可以做一些事情,這是最重要的,所以我是支持的,主席。

主席:何俊仁議員。

何俊仁議員:其實,以往我們召開這些專責委員會,即使有律師陪同證人出席,證人如果根據法律有需要回答問題,律師是幫不到他的。他要回答的,便要回答。他只能在我們問不適當的問題,而證人是有權拒絕回答時,律師才可以幫助他。這其實是好的,律師也可幫到我們,因為這讓我們不會做一些不應該做的事,對嗎?所以我們是歡迎律師出席,律師會很公道,根據法律來保障證人,以及保證我們的專責委員會能夠依法辦事,這是第一點。

第二點是,我們不要經常想着強迫一些不想說話的人,其實是有一些很想說話的人,但如果沒有給他們保障,他們是不能夠到來說的。最近報章報導,大家也知道,有一位專業人士,曾經在一個金融機構工作,曾提出一些建議給監管機構,以提高其危機意識,關於所謂投資銀行可能對香港所造成金融穩定的沖擊,報章曾刊登過,而該位人士,我們有些同事見過,他是很樂意出來作供的,但你一定要給他保障,所以我相信類似的人是會有的。

主席:好,馮檢基議員。

馮檢基議員:我是支持動議的,剛才同事已說過,我不重複了,簡單來說,即是可以取得文件,以及出席的人會有保障。

我想多舉一個例子,我記得我們上一屆的房屋事務委員會要求領匯出席討論有關領匯的政策,但領匯卻"一推、二推、三推",然而當我們說如果下次再邀請它時,它也不來,我們便會申請特權法的權力要它來、它便立即出現。當然,我覺得屆時委員會會懂得何時使用、何時不使用,但如果賦予這權力給委員會,我相信在有保障的情況下,會令他們因為有保障而前來,同時亦會令那些不想來的,因為我們有這權力而要前來。那次的例子是很清楚的,領匯便是因為我們準備申請此權力而立即出現及回答我們的問題。所以,我覺得歷史事實告訴我們,這權力可以令那些不想來、不肯來的都要來。

主席:現在,同事是第二次發言了,涂謹申議員先發言。

涂謹申議員:我不會重複其他同事的意見。第一,我自己提出任何這類 P and P的要求時,我真的也很謹慎,因為我知道這個權力要很小心地運用,尤其是將來的小組委員會,我自己也會是成員,我已經參加了,我都會很謹慎,究竟在甚麼情況下如何適當地運用。

但是,我很想多說一些技術方面的事宜,可能因為我在過往10幾年,在立法會參與了幾次這類運用強制權力的委員會,我可以總結幾個經驗。第一,正如馮檢基所說,你說你會使用,很多人立即會比較合作得多;第二是一如何俊仁所說,根本有人在有保障之下……因為可能公司的合約內有保密條文,或者公司與公司之間……很簡單,譬如在現時我們研究範圍內的第2點第3項,你想問雷曼和註冊機構或經紀在出售的過程中有何關係,他們之間的商業合約很多時都有一般隱含的保密條文,你問他佣金多少,或是會否有回購、會否有back-to-back的保障、售剩的便會包銷等等,這些全部是商業協議,如果你不是傳召他,到時他說不好意思,真的不能拿給你看,是不行的,那麼你的進展便會很困難,這是實際在法律上我們要跨越的一些障礙。

此外,還有一個障礙是很實際的,因為事實上,我們的財經事務 委員會以往問過很多事情,包括即使當日8小時的會議時間,任志剛和 證監會都曾提及過,根據相關的金管局條例和證監會條例,事實上是 有保密條文的,他作為監管當局有保密條文,所以如果他要回答你, 他自己也很煩,但如果你用傳召的形式,他回答你,根本是可以破除 這個障礙的。

另外,根據以往的經驗,有很多官員……事實上,可能不同的官員 之間會有不同的意見,在初期的會議及後來在傳召和宣誓下的作供是 顯然不同的,我相信大家最記得的便是"炒"梁銘彥那一宗,或甚至是" 炒"徐家傑那一宗也一樣,顯然是不同的。他們先前到來回答時會很技 術性,但到了在被傳召下,有很多事情,尤其是他們知道你可以取得 文件時,他們便很清楚地,不如清楚一點地回答,他們當時為何會有 那樣的看法?顯然是要得到真相、向前看,便必須有這個權力。我自 己是很小心、很謹慎地運用的,甚至在將來的小組委員會,我作為一 位成員,我都會很小心地運用這個權力。

主席: 黃國健議員。他是第一次發言,所以我讓他發言先。

黃國健議員:在雷曼事件發生至今天,政府和銀行界在處理這件事情的進度上,其實是令人不滿意的。星期一的內會特別會議中,出席人士對我們議員所提出的問題的回答,亦未能令我們清楚整件事的來龍去脈。今天既然內會已成立小組委員會,要跟進這件事,為了使小組能更有效率地工作,我們工聯會4位議員同意授予小組行使《立法會(權力及特權)條例》,希望促使這件事情早日獲得解決。多謝主席。

主席:好,謝謝。葉劉淑儀議員第二次發言。

葉劉淑儀議員:主席,我也是想澄清一下,我說那些政府官員、那些銀行家會請律師,並非說是律師代表代替他們來開會,只不過根據我瞭解政府的慣例,他們會更小心,每一件事都會take legal advice。我未曾參加過這些會議,到時是否准許律師陪伴在身邊,我並不知道,但如果特別是牽涉跟客人的合同,這些如此嚴重的要負責任的事情,相信他們會回答得更小心。雖然我們這裏有很多資深的"大狀",但市面也有很多其他十分有經驗的"大狀",到時只怕不過是律師與律師之間的鬥法而已。

此外,我知道官員的注意力難免會分散,我覺得現時官員最應該、首要處理的是,第一,正如特首所說,如何盡快在這個星期內要求銀行回答是否回購,以及哪些個案可以賠償。其實,我相信我們的同事也無須過於妄自菲薄,指我們的會議只是一個"口水會",我們在星期一"噴"了8個小時"口水"也有點成績,對嗎?當日傳媒已報道,在余若薇議員施壓下,任總已立即改而迫他的下屬在1個星期內"交卷",我覺得我們的會議單是這樣"噴口水"也並非沒有效力的。

我昨晚亦很高興在電視上看到星展銀行願意賠償給兩位苦主,該兩位苦主也很滿意,大家可以想像到,該兩位苦主是甚麼人呢?是年紀很大或智力有問題的,那麼他們又怎會瞭解那些風險呢?對嗎?所以我看很多事情也是說事實的。換句話說,我的原則只不過是,這些Ps and Ps要很謹慎地使用,目前最急切的是給予政府多些時間迫使銀行盡快回答可否回購,以及如何賠償給真正被誤導的苦主。

還有最後我要澄清的一點是,我對於設立專責委員會或立法會行使Ps and Ps有保留,是一個原則性的看法,並非跟任何人致電給我有關。我在選舉時,在最近的選舉論壇上,民主黨的楊森先生也問了我幾次,我都是重申我的立場,我的選民是全部聽到的,所以我的立場是一致的,並非因為有人致電給我,我只想澄清這一點。

主席:李卓人議員,第一次發言。

李卓人議員:多謝主席。我覺得葉太那些真的是歪理,亦是侮辱了我們的智力,她覺得我們的智力有問題,因為她覺得如果那些銀行有律師陪伴和教導,便會很小心說話,那麼我們便問不出東西來。但是,其實我們的選擇很簡單,要不便是他很小心說話,要不便是他不說話,那日很明顯他是不說話,不說話豈不是更慘嗎?他小心說話又有甚麼問題呢?我們並非要"裝人彈弓",我們是希望他們老實說話,亦希望他們小心說話,這是不要緊的,最重要是他們所說的是事實。

況且,特權法也很清楚,如果他們所說的並非事實,而他們是在宣誓下所說的,他們便要負責,所以他們小心說話是沒有問題,而且是應該的。我不知道葉太是否經常想找個人跟我們在酒吧開會,灌醉他,讓他不小心說話才能"套到料",這個世界是沒有可能這樣的。如果你真的要調查,便真的認認真真調查,否則你真的沒有第二個可能性。所以我希望大家一起支持,不要聽葉太的歪理而不支持使用這項特權條例。

主席:好,現在還有3位是第二次發言的,我希望各位同事留意時間, 我們今天4時半要交還會場,我們還有一個有關梁展文的專責委員會的 議題要討論的。或者我在此劃一條線,好嗎?即是第二次發言的......

哦,陳茂波,陳茂波第一次,加上陳茂波議員。有3位議員,即甘 乃威議員,張宇人,梁劉柔芬議員是第一次的,還有哪一位?譚耀宗 議員是第一次的,好,你等等,讓秘書先寫下,梁劉柔芬議員、陳茂 波議員;先是陳茂波議員,然後是譚耀宗議員,再後是李國麟議員。

我讀一次第一次發言的,陳茂波議員、梁劉柔芬議員、譚耀宗議員和李國麟議員是第一次的。接着還有3位是第二次發言,如果我們能

夠在4點15分完結,我們希望有15分鐘討論下一個議題好嗎?我想盡可能......石禮謙議員,你又......

石禮謙議員:我想問如果討論不完,那怎麼辦,主席?

主席:如果討論不完,大家便要討論究竟如何處理,因為在4時半我們 便要把會場交給財經事務委員會,那麼,唯有在下一次會議討論吧, 唯有這樣了,是嗎?

李永達議員:主席,可不可以在財經事務委員會開完會後再開會呢?

主席:我相信有議員已經搖搖頭,因為時間關係,不可以突然這樣做的,我相信會有點困難。大家好不好這樣呢?其實討論已經很充分了,好不好?大家盡量掌握時間,盡量簡短吧,就這樣處理吧,好嗎?各位同事合作一下。陳茂波議員,請每一位都說得簡短些。

陳茂波議員:是。

主席:說出自己的論點便算了,好嗎?希望不要辯論,好嗎?

陳茂波議員:多謝主席。不好意思,我不夠經驗,我剛才是按鈕,但 原來是要舉手的。

我是這樣看的,剛才涂謹申議員的建議有其一定的道理,而且有 好幾位議員發言時的法律角度,我也比較認同。不過,我覺得在目前 這件事上,我有一個顧慮,那是甚麼呢?便是目前苦主追討回金錢的 問題,其實還未解決,如果苦主追討金錢的問題已大致上解決,今天我們這個專責委員會要查清楚究竟發生甚麼事、誰要負責、日後如何改善,純粹是這樣,而又沒有制約存在的話,我也會支持運用特權的。

但是,最近我們看回這1個多星期的發展,包括剛才提到星展銀行有一些賠款支付給事主,今天我前來的時候聽到收音機,聽說銀行同意向苦主回購一部分的債券,我覺得整件事開始有些解決、開始有些進步,接下來亦會再進一步牽涉到如何幫助其他人,譬如一些弱勢人士、一些長者、一些被誤導的人,以解決這事件,當中可能牽涉到調解等各方面。那麼,我會覺得在這個階段,其實我們每個人的精力也應該集中於如何幫助他們盡快取回金錢。我個人比較贊成剛才葉劉淑儀議員的看法,所以我覺得在現在這個階段,我們是受制於希望可以為苦主追討回金錢的角度,盡量在資源、精神和其他方面給予空間和彈性,所以,我對於在現階段,讓這個委員會使用立法會的特權法有所保留。

主席:好,梁劉柔芬議員。

梁劉柔芬議員:主席,剛才有很多位議員都說,由2003年至今,我相信我們對上一次使用的,真的可能是在調查SARS一事,我也有參與其中,其實當時即使我們的委員會要用到P and P,在過程中何時要用也是非常謹慎的,在閉門會議中討論了很多次。我忘記了還有哪位同事跟我一起,我們是很謹慎地使用的,我希望我們這個調查小組……但我未曾見過在內會下成立一個小組,獲賦予一樣的權力,我相信小組如何運作,也要先看看將來討論後所定的工作範圍。

所以,我覺得今天大家所說的並沒有異議,無須弄至壁壘分明, 又指人家怎樣、指誰怎樣,我亦不想我們的形象一如湯家驊議員所說 般,我們好像是淪為"口水會"般。其實大家所說的並沒有異議,我覺得 也應該實實在在看清楚我們的職權範圍,反正你現時也不能決定,無 論如何也要到大會才可作出一個決定,是否賦予我們這個P and P的權力。我覺得我們不如快一點,先讓這個小組開會討論當中的職權範圍包括甚麼及如何。說不定,再過兩、三天情況又有變化,謝謝。

主席:好的,下一位,譚耀宗議員。

譚耀宗議員:主席,我從今天午間新聞報道得知,銀行公會同意雷曼 迷你債券回購建議,以及今天早上,金管局轉介了24宗雷曼兄弟相關 個案給證監會,以採取進一步行動。民建聯對於這兩方面的發展是歡 迎的,但我們都希望加快進展。

民建聯亦支持成立小組委員會。至於授權小組委員會行使《立法會(權力及特權)條例》,民建聯一直擔心,如果立法會引用這項權力及特權條例,可能會影響雷曼苦主的追索。所以,我們在上星期的內會會議表達了我們這個擔心。因此,我們當時不支持成立調查專責委員會。

但是,民建聯會非常留意着未來追索事件的發展情況。如果我們 發覺立法會引入這項權力及特權條例不會導致索償工作停頓,或是有 利於索償,可以加快索償程序,那麼民建聯是會支持的。所以,我們 今天不會投票反對或支持這項授權,因為我們知道從現在到日後,距 離大會正式表決仍有一段時間,我們屆時會作出決定,如何做才有利 於雷曼苦主的追索和有利於事情的解決。

主席:好的,李國麟議員。

李國麟議員:主席,剛才數位同事的說話我不再重複,但我從其中一位同事的說話,令我想起一位官員對我說過的話,便是如果成立這個

小組委員會,並使用這個特權法來處理,便會拖慢整個追討過程。我 真的完全看不到為何會是這樣,我剛才還懷疑難道有官員在這會議廳 內,令我感到很奇怪。當然,那位官員對我說話的語氣是訓示我的, 但我不知道他如何可以訓示我。這是第一點。

第二點,我看回這次的重要性便是,我很同意譚耀宗議員剛才的說法,如果今次成立了這個小組委員會之後,授予它使用特權法賦予的權力,而這樣可以令索償的過程加快的話,為何我們不贊成呢?我看不到會有一些情況出現,其實可以有一些做法,第一便是,兩條腿走路,這邊廂我們支持使用特權法,而那邊廂他們便繼續索償。但是,現在看不到有一些很實在的證據告訴我們,如果成立小組委員會便會拖慢進度,無法索償,這是政府的說法而已,但我看不到政府的說法有何理據。所以,我一定會支持立法會今次成立這個小組委員會及使用特權法。

主席:好的,各位同事,現在有3位議員第二次發言,1位是第三次發言,我想再一次提醒大家,我們現在不是辯論,如果我們成立小組委員會的話,最終還是要在大會上再辯論一次 —— 我想提醒大家。

甘乃威議員,第二次發言。

甘乃威議員:主席,我歡迎我們的同事回頭是岸,我希望盡快表決, 多謝主席。

主席:張宇人議員。

張宇人議員:主席,我想說說,首先,自由黨一樣有幫雷曼苦主;第二,就剛才同事所說,我沒有官員或甚麼人致電給我,又或是當面訓

斥我也沒有,所以我沒有受到壓力;第三,我知道你不太高興我阻着 大家的時間。

不過,我想說一說自由黨的看法。第一,我們支持成立這個小組; 第二,我們沒有說會反對給予這個權力,我們只是在程序上,是否先 讓這小組開完會討論後,認為有這個需要,或是傳召他們時取不到資 料。但是,當然我亦聽到其他同事提到,這或可加快這方面的工作, 自由黨當然希望雷曼苦主的問題可以盡快解決。所以,我們不會,而 我們亦從來沒有說,即自由黨沒有說過反對把這個權力給予這個小 組,謝謝主席。

主席:梁國雄議員。

梁國雄議員:我聽到葉劉淑儀議員剛才的說話,她用當官的經驗向我們解釋,這樣做可能會適得其反。我清楚記得2003年她如何對待涂謹申議員,她說你又不守規矩、態度又差,我以後不回答你。

主席:梁國雄議員,請說回這個議題好嗎?

梁國雄議員:如果當時用了權力及特權條例,她一定不會這樣說的。一定不會說你沒有規矩、態度又差,我不回答你,因為如果她是這樣說的話,便有問題了。所以,你根據自己當官的經驗應該知道,如果你當天是在一個有P and P的委員會裏面作證,你有膽量這樣說嗎?你當然沒有這膽量,但你又沒有膽量說,你相信我吧,是不行的,老兄。

你當官的經驗告訴你,官員沒有一把 —— 這次真的放一把刀在 他的頭上,他是不會說實話的,除了梁愛詩比較中直之外。老兄,你 又說不出有甚麼方法令官員說實話,拿文件出來,但你又叫我們不要 這樣做。你這些官場術是用來嚇我,還是甚麼呢,對嗎?你自己知道的,你說謊,說會有167萬人來香港,又可以胡說八道。如果是有P and P的話,你有這個膽量嗎?事後,你說這是乘四的。

現在先不要說這麼多。第一,你們是否贊成呢?對嗎?

主席:所以要投票了。

梁國雄議員:還有一點......

主席:你說完後,便進行投票。

梁國雄議員:還有一點,曾蔭權說關鍵時候政府要介入,政府是甚麼態度呢?我們用P and P,政府反對還是贊成呢?百分之一百銀行存款保障,便是必要時要介入,但調查便不是必要時要介入。他要主動配合,來這裏自首,對嗎?說話也要有道理,你再說甚麼法律責任,我們這裏也有法律顧問,你是否想請教他呢?你不要甚麼也說律師,老兄,這裏有數個律師。我不是律師,不過我不信、我不相信。如果是真的話,我們也不能容忍銀行家加政府向立法會和苦主,以及600萬市民訛詐,這是訛詐。如果你追求真相,便得不到賠償。這是甚麼邏輯呢?還未告他詐騙。如果商業罪案調查科真的做事的話,已捉了很多人。

主席:好了,梁國雄議員,你表達了意見,要準備投票了。

梁國雄議員:我準備投票,我要激勵人心,人要有羞耻心,要懂得思

量,2003年自己做過甚麼。

主席:現在不是辯論,OK。涂謹申議員你是最後發言的一位,因為你

是第三次發言,而且大家亦討論了很久,應該準備投票,決定是否支

持賦予這個小組權力及特權條例下的權力。請涂謹申議員最後發言。

涂謹申議員:主席,譚耀宗議員的觀點與政府的觀點一樣,因為政府

亦向我重複過其觀點。我自己的確很小心地考慮,因為我們現在幫這

麼多位苦主,如果有任何我覺得會影響到他們的,我真的寧願不做。

但是,當我正反考慮過後,我很相信、很相信,不單只沒有顧慮,其

實只會增加他們的討價還價能力,以及整件事可以有機會快一點解

决。因此,我昨天考慮了整個晚上。如果有一點問題的話,我寧願有

氣度一點把它收回,這也不要緊,但問題只會有正面作用,所以我仍

然堅持提出。

主席:好的,現在我們已經過了45分鐘的討論,我們現在要進行表決,

支持賦予這個小組委員會.....黃國健議員。

黃國健議員:請鳴鐘,有些議員還未回來。

主席:好的,現在鳴鐘請同事回來投票。

秘書:兩分鐘。

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主席:兩分鐘。你要求記名,我們便進行記名表決,你是否要求記名呢?

劉慧卿議員:是的。

主席:你要求記名表決,好的,那麼便記名表決。

好的,時間到了。支持這項建議的,請舉手。請舉定手,陳偉業議員,我恐怕你把手放下,請舉定手,秘書要記下的,因為這是記名表決。好的,請放下。反對的請......

秘書:請先讀一次贊成的人名。

主席:先要讀一次,OK。

請稍等,秘書提醒我要先把贊成的議員讀一次,由後排開始,好嗎?

鄭家富議員、張文光議員、涂謹申議員、李永達議員、何俊仁議員、王國興議員、黃國健議員、潘佩璆議員、葉偉明議員、黃成智議員、甘乃威議員、李國麟議員、馮檢基議員、張國柱議員、李卓人議員、梁耀忠議員、何秀蘭議員、劉慧卿議員,陳偉業議員、梁國雄議員、黃毓民議員、余若薇議員、吳靄儀議員、湯家驊議員、李華明議員、梁家傑議員、陳淑莊議員、李鳳英議員。

有沒有遺漏?沒有遺漏的話,反對的請舉手。

好的,反對的包括:石禮謙議員、何鍾泰議員、黃宜弘議員。請 放下。

棄權的請舉手。請放下。我現在讀出棄權的議員。

棄權的包括:張學明議員、黃定光議員、譚耀宗議員、葉國謙議員、李慧琼議員、陳鑑林議員、陳克勤議員、黃容根議員、劉秀成議員、葉劉淑儀議員、梁君彥議員、梁劉柔芬議員、林健鋒議員、張宇人議員、林大輝議員、劉皇發議員、譚偉豪議員、梁家騮議員、陳茂波議員。

投票的結果是,28位同事贊成,3位反對,棄權的是19位。

大家贊成賦予這個小組權力及特權條例下的權力。有關的動議將會在大會上提出,各位同事請安靜,有關動議會在大會上提出,並由小組委員會的主席在大會上提出的,OK。

這事項我們已處理了,接着還有大約8分鐘時間,我們也要處理下 一個議程,便是建議委任專責委員會調查梁展民事件,而這項建議是 由李永達議員提出的。李永達議員。