

立法會
Legislative Council

LC Paper No. CB(2)1095/12-13

Ref : CB2/H/5/12

House Committee of the Legislative Council

**Minutes of the 24th meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 3 May 2013**

Members present:

Hon Andrew LEUNG Kwan-yuen, GBS, JP (Chairman)

Hon Ronny TONG Ka-wah, SC (Deputy Chairman)

Hon Albert HO Chun-yan

Hon James TO Kun-sun

Hon CHAN Kam-lam, SBS, JP

Hon LEUNG Yiu-chung

Dr Hon LAU Wong-fat, GBM, GBS, JP

Hon Emily LAU Wai-hing, JP

Hon TAM Yiu-chung, GBS, JP

Hon Abraham SHEK Lai-him, SBS, JP

Hon Tommy CHEUNG Yu-yan, SBS, JP

Hon Frederick FUNG Kin-kee, SBS, JP

Hon WONG Kwok-hing, MH

Dr Hon Joseph LEE Kok-long, SBS, JP

Hon Jeffrey LAM Kin-fung, GBS, JP

Hon WONG Ting-kwong, SBS, JP

Hon Cyd HO Sau-lan

Hon Starry LEE Wai-king, JP

Dr Hon LAM Tai-fai, SBS, JP

Hon CHAN Hak-kan, JP

Hon CHAN Kin-por, BBS, JP

Dr Hon Priscilla LEUNG Mei-fun, JP

Dr Hon LEUNG Ka-lau

Hon CHEUNG Kwok-che

Hon WONG Kwok-kin, BBS

Hon IP Kwok-him, GBS, JP

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

Hon Paul TSE Wai-chun, JP

Hon Alan LEONG Kah-kit, SC

Hon LEUNG Kwok-hung
Hon Albert CHAN Wai-yip
Hon WONG Yuk-man
Hon Claudia MO
Hon Michael TIEN Puk-sun, BBS, JP
Hon NG Leung-sing, SBS, JP
Hon Steven HO Chun-yin
Hon YIU Si-wing
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK
Hon CHAN Chi-chuen
Hon CHAN Han-pan
Dr Hon Kenneth CHAN Ka-lok
Hon CHAN Yuen-han, SBS, JP
Hon LEUNG Che-cheung, BBS, MH, JP
Hon Kenneth LEUNG
Hon Alice MAK Mei-kuen, JP
Dr Hon KWOK Ka-ki
Hon KWOK Wai-keung
Hon Dennis KWOK
Hon Christopher CHEUNG Wah-fung, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu
Dr Hon CHIANG Lai-wan, JP
Ir Dr Hon LO Wai-kwok, BBS, MH, JP
Hon CHUNG Kwok-pan
Hon Christopher CHUNG Shu-kun, BBS, MH, JP
Hon Tony TSE Wai-chuen

Members absent:

Hon LEE Cheuk-yan
Hon Vincent FANG Kang, SBS, JP
Hon James TIEN Pei-chun, GBS, JP
Hon Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon Gary FAN Kwok-wai
Hon IP Kin-yuen

Clerk in attendance :

Miss Flora TAI Clerk to the House Committee

Staff in attendance :

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| Mr Kenneth CHEN, SBS | Secretary General |
| Mr Jimmy MA, JP | Legal Adviser |
| Mrs Justina LAM | Deputy Secretary General |
| Mr Andy LAU | Assistant Secretary General 1 |
| Miss Odelia LEUNG | Assistant Secretary General 3 |
| Mrs Percy MA | Assistant Secretary General 4 |
| Ms Connie FUNG | Senior Assistant Legal Adviser 1 |
| Mr Arthur CHEUNG | Senior Assistant Legal Adviser 2 |
| Mr Timothy TSO | Acting 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)1 |
| Ms Joanne MAK | Chief Council Secretary (2)3 |
| Ms Amy YU | Chief Council Secretary (2)6 |
| Mr Kelvin LEE | Assistant Legal Adviser 1 |
| Ms Clara TAM | Assistant Legal Adviser 9 |
| Miss Josephine SO | Senior Council Secretary (2)2 |
| Mr Jove CHAN | Senior Council Secretary (2)6 |
| Ms Judy TING | Council Secretary (2)6 |
| Ms Anna CHEUNG | Senior Legislative Assistant (2)3 |
| Mr Arthur KAN | Legislative Assistant (2)7 |

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I. Confirmation of the minutes of the 23rd meeting held on 26 April 2013

(LC Paper No. CB(2)1055/12-13)

The minutes were confirmed.

II. Matters arising

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

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

III. Further business for the Council meeting of 8 May 2013

Business originally scheduled for the Council meeting of 24 April 2013

3. The Chairman said that the unfinished business on the Agenda of the Council meeting of 24 April 2013 would be dealt with at the Council meeting of 8 May 2013.

Members' motions

Proposed resolution under section 34(4) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the Residential Care Homes (Persons with Disabilities) Ordinance (Commencement) Notice 2013 to be moved by Hon CHEUNG Kwok-che

(Wording of the proposed resolution issued vide LC Paper No. CB(3)527/12-13 dated 30 April 2013)

4. The Chairman said that Mr CHEUNG Kwok-che, Chairman of the Subcommittee on the above Commencement Notice, had given notice to move a proposed resolution at the Council meeting of 8 May 2013 to extend the scrutiny period of the Commencement Notice to 5 June 2013.

IV. Business for the Council meeting of 15 May 2013

(a) Questions

(LC Paper No. CB(3)525/12-13)

5. The Chairman said that 22 questions (six oral and 16 written) had been scheduled for the meeting of 15 May 2013. In the event that the Appropriation Bill 2013 had to be dealt with at that Council meeting, there would be no oral question session at the meeting. Subject to the agreement of the Members who had been allocated oral question slots at that meeting, their oral questions would be asked as written questions.

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

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

(c) Government motion

Proposed resolution under section 3 of the Loans Ordinance (Cap. 61) to be moved by the Secretary for Financial Services and the Treasury

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(Wording of the proposed resolution issued vide LC Paper No. CB(3)519/12-13 dated 25 April 2013)
(LC Paper No. LS46/12-13)

7. At the invitation of the Chairman, Legal Adviser explained that the proposed resolution sought to raise the maximum amount of borrowings by the Government for the purposes of the Bond Fund from \$100 billion to \$200 billion. The Panel on Financial Affairs had been consulted at its meeting on 8 April 2013 and members in general supported the proposal. The proposed resolution, if approved by the Legislative Council ("LegCo"), would come into operation on the day of publication in the Gazette.

8. Members did not raise objection to the Administration moving the proposed resolution at the Council meeting.

(d) Members' motions

(i) Motion on "The 4 June incident"

(Wording of the motion issued vide LC Paper No. CB(3)532/12-13 dated 30 April 2013.)

9. The Chairman said that the above motion would be moved by Mr Albert HO, and the wording of the motion had been issued to Members.

(ii) Motion to be moved by Hon Alan LEONG

10. The Chairman said that the subject of the motion to be moved by Mr Alan LEONG was "Democratic procedures for the election of the Chief Executive by universal suffrage in 2017".

11. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 8 May 2013.

Report of House Committee on Consideration of Subsidiary Legislation

12. The Chairman invited Members to note the list containing two items of subsidiary legislation tabled at the meeting, the scrutiny period of which would expire on 15 May 2013. Members who wished to speak on the subsidiary legislation should indicate their intention by 5:00 pm on Tuesday, 7 May 2013.

V. Report of Bills Committees and subcommittees

**(a) Report of the Bills Committee on District Councils
(Amendment) Bill 2013**

(LC Paper No. CB(2)1057/12-13)

13. Mr IP Kwok-him, Chairman of the Bills Committee, said that the Bill proposed amendments to the District Councils Ordinance (Cap. 547) and other relevant subsidiary legislation to abolish the system of appointing members to District Councils ("DCs") by the Chief Executive ("CE") with effect from 1 January 2016, i.e. the commencement date of the fifth term of office of DCs.

14. Mr IP Kwok-him reported that the Bills Committee had held three meetings and had received views from the public at one of the meetings. Members of the Bills Committee in general supported the abolition of all DC appointed seats with effect from 1 January 2016. Members had expressed concerns on the impact of the proposed abolition of the appointed seats on the operation of DCs and whether the ex officio seats in DCs should be retained.

15. Mr IP Kwok-him further reported that the Bills Committee supported the resumption of the Second Reading debate on the Bill at the Council meeting of 15 May 2013. The Administration and the Bills Committee had not proposed any Committee stage amendment ("CSA") to the Bill. He referred Members to the Bills Committee's report for details of its deliberations.

16. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 6 May 2013.

**(b) Second report of the Subcommittee on Subsidiary Legislation
Made under the New Companies Ordinance**

(LC Paper No. CB(1)949/12-13)

17. Mr WONG Ting-kwong, Chairman of the Subcommittee, said that the Subcommittee had held two meetings to discuss the second batch of two items of subsidiary legislation made under the new Companies Ordinance ("CO").

18. Mr WONG Ting-kwong reported that members had expressed concern about the inconsistency in the penalty levels between section 20(4) of the Companies (Revision of Financial Statements and Reports) Regulation and section 450(4) of the new CO. To address members' concern, the Administration had proposed to amend section 20(4)(a) of

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the Regulation and introduce a new section 20(4A). In addition, the Administration had also proposed textual amendments to the Chinese and English texts of certain provisions to improve the clarity, flow and consistency of the two items of subsidiary legislation. He referred Members to the Subcommittee's report for details of its deliberations.

19. Mr WONG Ting-kwong further reported that the Subcommittee would not move any amendment to the two items of subsidiary legislation. The Administration had originally planned to move motions at the Council meeting of 15 May 2013 to make amendments to the two items of subsidiary legislation. However, since the Council could not deal with the proposed resolution to extend the scrutiny period of the two items of subsidiary legislation to 15 May 2013 before the expiry of their 28-day scrutiny period, the scrutiny period of the subsidiary legislation had expired at the Council meeting of 24 April 2013. Mr WONG added that the new CO had not yet commenced operation and the Administration would advise the Subcommittee on the way forward.

20. Mr WONG Ting-kwong added that the Subcommittee would continue its work to scrutinize the third batch of subsidiary legislation when they were introduced into LegCo at the end of May 2013.

(c) Report of the Subcommittee on Frontier Closed Area (Amendment) Order 2013 and Frontier Closed Area (Permission to Enter) (Amendment) Notice 2013

21. Mr IP Kwok-him, Chairman of the Subcommittee, made a verbal report on the deliberations of the Subcommittee. He said that the Subcommittee had completed its scrutiny work. The object of the two items of subsidiary legislation was to implement the second stage of reduction in the coverage of the Frontier Closed Area ("FCA").

22. Mr IP Kwok-him reported that the Subcommittee had held one meeting. Members were mainly concerned about the security of the reduced FCA and issues relating to the application for closed area permits. Some members also expressed concern about the specific development proposals for the land excised from FCA and the need to keep Sha Tau Kok town within the reduced FCA.

23. Mr IP Kwok-him further reported that the Subcommittee raised no objection to the two items of subsidiary legislation and had not proposed any amendment. The Subcommittee would provide its written report later.

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24. The Chairman reminded Members that as the deadline for amending the two items of subsidiary legislation was 15 May 2013, the deadline for giving notice of amendments, if any, was Wednesday, 8 May 2013.

VI. Position on Bills Committees and subcommittees
(*LC Paper No. CB(2)1056/12-13*)

25. The Chairman said that as at 2 May 2013, there were 12 Bills Committees, nine subcommittees under the House Committee ("HC") (i.e. five subcommittees on subsidiary legislation, one subcommittee on policy issues and three subcommittees on other Council business) and seven subcommittees on policy issues under Panels in action. Three subcommittees on policy issues under Panels were on the waiting list.

VII. Proposals to appoint a select committee to consider matters relating to the conduct of the former Commissioner, Independent Commission Against Corruption, Mr Timothy TONG Hin-ming, and the arrangements for expenses on entertainment, duty visits outside Hong Kong and giving of gifts during his term of office; and to authorize the select committee to exercise the powers under section 9(1) of the Legislative Council (Powers and Privileges) Ordinance

(a) **Letter from Hon Dennis KWOK**
(*Letter dated 25 April 2013 from Hon Dennis KWOK (LC Paper No. CB(2)1048/12-13(01))*)

(b) **Letter from Hon Cyd HO**
(*Letter dated 25 April 2013 from Hon Cyd HO (LC Paper No. CB(2)1048/12-13(02))*)

26. The Chairman invited Mr Dennis KWOK and Ms Cyd HO to speak on their respective proposals.

27. Mr Dennis KWOK said that recent media reports on issues relating to the expenses on entertainment, gifts and duty visits outside Hong Kong during the term of office of the former Commissioner, Independent Commission Against Corruption ("C/ICAC"), Mr Timothy TONG, had aroused grave public concern. He stressed that probity was an important core value of Hong Kong, and was critical of the explanation provided by ICAC that food was not counted as gifts.

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Members belonging to the Civic Party regarded the establishment of the Independent Review Committee on ICAC's Regulatory Systems and Procedures for handling Official Entertainment, Gifts and Duty Visits ("Review Committee") announced by CE unacceptable, as it did not have the statutory power to investigate the matter and lacked credibility. He appealed to Members belonging to different political parties and groupings to support the proposed appointment of a select committee to inquire into the matter so as to restore public trust in ICAC.

28. Ms Cyd HO said that Hong Kong took pride in its reputation as a clean society free of corruption, and C/ICAC was expected to be "whiter than white". It was regrettable that the former C/ICAC, Mr Timothy TONG, had spent lavish sums of public money on meals and expensive gifts for Mainland officials. She was worried that this would give a wrong impression to Mainland officials that probity in government was only empty talk in Hong Kong. Stressing the importance of upholding the value of probity, Ms HO considered it necessary for LegCo to invoke the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") to inquire into the matter. She further pointed out that the focus of the Review Committee was on reviewing the systems and regulations governing official entertainment, rather than investigating the case of Mr Timothy TONG and whether other ICAC officials were involved. She appealed to Members to support the proposed appointment of a select committee to inquire into the matter, as HC's support would reflect the collective stance of Members on probity and integrity.

29. The Chairman invited Members' views on the proposals.

30. Mr LEUNG Kwok-hung said that Mr Timothy TONG, who was a Hong Kong member of the National Committee of the Chinese People's Political Consultative Conference after leaving the office of C/ICAC, had not made any public appearance since the matter came to light. In Mr LEUNG's view, CE should have appointed a commission of inquiry with statutory power to inquire into the matter. Mr LEUNG expressed support for invoking the powers under the P&P Ordinance to inquire into the matter, as Mr Timothy TONG could be summoned to give evidence and an open and transparent inquiry process would enable the public to find out the truth.

31. Ms Claudia MO said that she and Mr Gary FAN had lodged complaints with ICAC a week ago over Mr Timothy TONG's alleged misconduct in public office and breach of bribery laws, but ICAC had yet to respond to them on whether it would conduct investigation into the case. She surmised that CE's establishment of the Review Committee,

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which was tasked to review the systems rather than inquiring into the matter, was merely a whitewash, probably because officials of the Liaison Office of the Central People's Government in Hong Kong ("Liaison Office") and other Mainland officials were involved. She stressed that as ICAC represented Hong Kong's important core value of probity and given the gravity of the matter, it was incumbent upon the Legislature to discharge its duty of monitoring the Executive by invoking the powers under the P&P Ordinance to inquire into the matter.

32. Dr KWOK Ka-ki said that many members of the public were infuriated by Mr Timothy TONG's case, as the core value of probity was highly cherished by Hong Kong people who expected public officers to uphold probity and integrity in discharging their duties. He expressed dissatisfaction that instead of launching an independent inquiry into the alleged misconduct of Mr TONG, CE had ordered only a review of the systems and regulations. He shared the view that the establishment of the Review Committee was an attempt to whitewash the matter and let Mr TONG get away, so as not to cause any embarrassment to the Central Authorities. He also criticized Mr TONG for bringing shame to Hong Kong, and considered it the responsibility of LegCo to find out the truth for the public. He appealed to Members to support the moving of a motion by the HC Chairman in Council for the proposed appointment of a select committee to conduct an inquiry into the matter.

33. Dr Kenneth CHAN said that the scandal surrounding Mr Timothy TONG had seriously damaged Hong Kong's international reputation as a clean society free of corruption. Given the gravity of the matter, Members belonging to different political parties and groupings should support invoking the powers under the P&P Ordinance to conduct a comprehensive inquiry as soon as possible. Dr CHAN added that the moving of a motion by the HC Chairman in Council on the proposed appointment of a select committee would reflect clearly the collective stance of LegCo on the matter.

34. Mr NG Leung-sing considered that Members should refrain from further speculating on the matter when ICAC had already received complaints about it; otherwise it would only do more harm than good to the reputation of ICAC. Furthermore, the Public Accounts Committee ("PAC") would hold a public hearing on Chapter 7 of the Director of Audit's ("DoA's") Report No. 60 concerning ICAC. In the light of these considerations, he did not support the proposed appointment of a select committee to inquire into the matter.

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35. Dr Priscilla LEUNG considered it unfair for some Members to question the integrity of the entire institution of ICAC merely on account of the allegations made against Mr Timothy TONG. She further said that according to her experience, the results of an inquiry conducted by a select committee usually boiled down mainly to recommendations on improving the relevant systems. Given that PAC and the Review Committee established by CE would examine the systemic issues concerned, she did not support the proposed appointment of a select committee to inquire into the matter, which, in her view, would overlap with the work of PAC and the Review Committee.

36. Mr Kenneth LEUNG pointed out that in its public hearing, PAC would only focus on issues relating to value for money in the specific areas covered in DoA's report, while the work of the Review Committee would focus on examining ICAC's systems and procedures for handling expenses on official entertainment, gifts and duty visits. Mr LEUNG expressed support for the proposed appointment of a select committee to conduct a comprehensive and transparent inquiry into the matter.

37. Ms Emily LAU indicated support for the proposed appointment of a select committee to inquire into the matter. In her view, it was absurd for CE to appoint Mr CHOW Chung-kong, Chairman of the Advisory Committee on Corruption of ICAC, as the Chairman of the Review Committee when the Advisory Committee had failed to properly discharge its responsibilities of reviewing the operational, staffing and administrative policies of ICAC. Ms LAU stressed that it was necessary to find out why the former C/ICAC had to dine so frequently with officials of the Liaison Office and send expensive gifts to Mainland officials. She queried whether the Review Committee would look into these issues. She further pointed out that the Review Committee did not have any statutory investigative powers to order the attendance of witnesses or the production of documents by parties concerned, and its work would not be conducted openly. She stressed that the manner in which CE handled the matter was unacceptable.

38. Mr LEUNG Yiu-chung considered that the terms of reference of the Review Committee established by CE were not in accord with public expectation, as it was tasked to examine ICAC's regulatory systems for handling expenses on official entertainment and gifts, and not to inquire into the scandal surrounding Mr Timothy TONG. He expressed support for the proposed appointment of a select committee, which should look into issues concerning both the conduct of the former C/ICAC and the regulatory systems concerned. He stressed that the object of the inquiry was to restore public confidence in ICAC, and not to pinpoint at Mr TONG.

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39. Dr Helena WONG expressed support for appointing a select committee authorized with the powers under the P&P Ordinance to inquire into the alleged misconduct of the former C/ICAC. She stressed the importance of having a body independent of ICAC with statutory powers to conduct a thorough inquiry into the matter. Having regard to the importance of maintaining the probity and integrity of the Government and restoring the reputation of ICAC, she considered that it would be a dereliction of duty on the part of Members should they not support the proposed appointment of a select committee.

40. Mr Tommy CHEUNG said that Members belonging to the Liberal Party considered that the matter should be investigated by a body independent of ICAC. Although they agreed that PAC should follow up the matter, they were concerned that it might be outside PAC's remit to look into allegations which were not covered in DoA's report. Members belonging to the Liberal Party considered it best for the Administration to set up a statutory commission of inquiry led by a judge to inquire into the matter to find out the truth for the public. The Liberal Party had also written to CE to convey the request. Should CE turn down their request, they did not rule out supporting the proposed invocation of the powers under the P&P Ordinance to inquire into the matter.

41. Mr SIN Chung-kai agreed that PAC should hold a public hearing on the matter as it fell within its purview. In his view, the work of the proposed select committee would not overlap with that of PAC or the Review Committee established by CE. Instead of examining ICAC's expenses on entertainment and gifts or reviewing the relevant regulatory systems and procedures, he considered it important for the select committee to look into the question of whether the former C/ICAC had, during his contacts and meals with Mainland officials, breached the rules of confidentiality and disclosed information about cases under investigation by ICAC.

42. Dr LAM Tai-fai said that based on his experience in the work of two select committees in the last LegCo term, he did not consider that invoking the powers under the P&P Ordinance to inquire into the matter under discussion would help find out the truth. He therefore did not support the proposals of Mr Dennis KWOK and Ms Cyd HO. He trusted that CE would deal with the matter seriously to do justice to ICAC. However, should the investigations of PAC and ICAC and the review undertaken by the Review Committee failed to bear fruit, he would not rule out supporting the invocation of the powers under the P&P Ordinance to inquire into the matter.

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43. Dr Fernando CHEUNG said that the terms of reference of the Review Committee established by CE did not include investigating the alleged misconduct and non-compliance with regulations on the parts of the former C/ICAC and other ICAC officers. In Dr CHEUNG's view, Mr Timothy TONG's case showed that Mr CHOW Chung-kong had not properly performed his duties as the Chairman of ICAC's Advisory Committee on Corruption in overseeing the work of ICAC. He therefore considered it not appropriate for Mr CHOW to lead the work of the Review Committee. Dr CHEUNG further said that the fact that expenses on food incurred by Mr TONG had not been included in the information provided by ICAC to LegCo on the amount of money Mr TONG had spent on gifts when he was C/ICAC showed that the misconduct might involve not only Mr TONG but also other ICAC staff. It was important that the inquiry into the matter be conducted by an independent body with the power to summon Mr TONG and relevant ICAC staff. He therefore expressed support for the proposed appointment of a select committee to conduct an inquiry into the matter, so as to uphold the core value of probity and integrity of Hong Kong and restore public confidence in ICAC.

44. Miss Alice MAK said that since ICAC had received complaints about the matter and PAC would conduct a public hearing and Mr Timothy TONG would be summoned to attend, she did not consider it necessary for LegCo to appoint a select committee to inquire into the matter.

45. Mr Alan LEONG recalled that the incumbent C/ICAC, Mr Simon PEH, had indicated, during his meeting with the media on 24 April 2013, that he would cooperate with LegCo in its investigation. That being the case, he could not see any reason why some Members objected to LegCo setting up a select committee to inquire into the matter. Mr LEONG further said that the public was concerned whether the former C/ICAC had abused his authority for personal gains, and whether he had instilled into ICAC the culture of lavish wining and dining on the Mainland. In his view, these issues of public concern could not be addressed by the Review Committee which did not have any investigative power. Members belonging to the Civic Party strongly supported the proposed appointment of a select committee to inquire into the matter.

46. Mr Ronny TONG said that Hong Kong took pride in its culture of probity and integrity. He stressed that the fact that the bribery laws had not been violated or the requirements of the relevant regulatory systems had been complied with was not tantamount to probity and integrity. He queried whether the inquiries by ICAC, PAC, or the Review

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Committee could address the crux of the problem. LegCo had the responsibility to monitor the Government, including its probity and integrity. He appealed to Members belonging to the pro-establishment camp to support the proposed appointment of a select committee to inquire into the matter.

47. Mr Jeffrey LAM clarified that Mr CHOW Chung-kong served as the Chairman of ICAC's Advisory Committee on Corruption only after Mr Timothy TONG had left ICAC. He said that Members belonging to the Business and Professionals Alliance of Hong Kong did not support the proposed invocation of the powers under the P&P Ordinance at this stage on the considerations that PAC, which would follow up the matter, had decided to summon Mr TONG to its hearing, and the Review Committee established by CE would review, among other things, the compliance of ICAC staff of all ranks with the regulatory systems and rules during the term of Mr TONG's office.

48. Mr James TO said that it was the public's expectation that a comprehensive inquiry should be conducted into the matter given the significance of its impact. He considered it regrettable that, instead of setting up a statutory commission of inquiry led by a judge to conduct a comprehensive inquiry into the matter, CE had only set up a Review Committee which focused on examining the systems and had no statutory power to order the attendance of witnesses or the production of documents by parties concerned. Mr TO also queried the credibility of the Review Committee, given that all its members had roles in the existing monitoring mechanism of ICAC. He stressed that nothing short of a comprehensive inquiry by a statutory commission of inquiry could restore public confidence in ICAC.

49. Mr IP Kwok-him said that ICAC was an important institution which Hong Kong took great pride in, and it was important to ensure that its reputation would not be damaged by the matter. He considered it unreasonable to question the impartiality of ICAC's investigation into allegations made against its former Commissioner. Having regard to ICAC's investigation into the complaints made against Mr Timothy TONG, and the actions to be taken by PAC and the Review Committee to examine the relevant regulatory systems, Members belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong did not consider it necessary for LegCo to invoke the powers under the P&P Ordinance to inquire into the matter. Mr IP added that comments linking contacts with the Liaison Office to deferred benefits were unjustified.

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50. As there were divided views among Members, the Chairman put to vote the proposed appointment of a select committee to consider matters relating to the conduct of the former C/ICAC, Mr Timothy TONG, and the arrangements for expenses on entertainment, duty visits outside Hong Kong and giving of gifts during his term of office; and to authorize the select committee to exercise the powers under section 9(1) of the P&P Ordinance. Mr Dennis KWOK requested a division.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr James TO, Mr LEUNG Yiu-chung, Ms Emily LAU, Mr Frederick FUNG, Dr Joseph LEE, Mr Ronny TONG, Ms Cyd HO, Dr LEUNG Ka-lau, Mr CHEUNG Kwok-che, Mr Paul TSE, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr Charles MOK, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Kenneth LEUNG, Dr KWOK Ka-ki, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr SIN Chung-kai and Dr Helena WONG.

(25 Members)

The following Members voted against the proposal:

Mr CHAN Kam-lam, Dr LAU Wong-fat, Mr TAM Yiu-chung, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Dr LAM Tai-fai, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Kwok-him, Mrs Regina IP, Mr Michael TIEN, Mr NG Leung-sing, Mr Steven HO, Mr YIU Si-wing, Mr CHAN Han-pan, Miss CHAN Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr Christopher CHUNG and Mr Tony TSE.

(31 Members)

The following Members abstained from voting:

Mr Tommy CHEUNG, Mr POON Siu-ping and Mr CHUNG Kwok-pan.
(3 Members)

51. The Chairman declared that 25 Members voted for and 31 Members voted against the proposal and three Members abstained. The Chairman declared that the proposal was negatived.

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VIII. Any other business

52. There being no other business, the meeting ended at 3:28 pm.

Council Business Division 2
Legislative Council Secretariat
9 May 2013