

立法會
Legislative Council

LC Paper No. CB(2)65/14-15

Ref : CB2/H/5/14

House Committee of the Legislative Council

**Minutes of the 1st meeting
held in Conference Room 1 of the Legislative Council Complex
at 2:30 pm on Friday, 10 October 2014**

Members present:

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

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

Hon Albert HO Chun-yan

Hon LEE Cheuk-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, GBS, JP

Hon Tommy CHEUNG Yu-yan, SBS, JP

Hon Frederick FUNG Kin-kee, SBS, JP

Hon Vincent FANG Kang, SBS, JP

Hon WONG Kwok-hing, BBS, MH

Hon Jeffrey LAM Kin-fung, GBS, JP

Hon WONG Ting-kwong, SBS, JP

Hon Cyd HO Sau-lan, JP

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, SBS, JP

Hon CHEUNG Kwok-che

Hon WONG Kwok-kin, SBS

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 Frankie YICK Chi-ming
Hon WU Chi-wai, MH
Hon YIU Si-wing
Hon Gary FAN Kwok-wai
Hon MA Fung-kwok, SBS, JP
Hon Charles Peter MOK, JP
Hon CHAN Chi-chuen
Hon CHAN Han-pan, JP
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, SBS, JP
Dr Hon Fernando CHEUNG Chiu-hung
Hon SIN Chung-kai, SBS, JP
Dr Hon Helena WONG Pik-wan
Hon IP Kin-yuen
Dr Hon Elizabeth QUAT, JP
Hon Martin LIAO Cheung-kong, SBS, JP
Hon POON Siu-ping, BBS, MH
Hon TANG Ka-piu, JP
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, BBS

Members absent:

Prof Hon Joseph LEE Kok-long, SBS, JP, PhD, RN
Dr Hon LEUNG Ka-lau
Hon James TIEN Pei-chun, GBS, JP

Clerk in attendance :

Miss Flora TAI

Clerk to the House Committee

Staff in attendance :

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
Mr Matthew LOO	Assistant Secretary General 4
Ms Connie FUNG	Senior Assistant Legal Adviser 1
Mr Stephen LAM	Senior Assistant Legal Adviser 2
Mr KAU Kin-wah	Senior Assistant Legal Adviser 3
Ms Dora WAI	Principal Council Secretary 1
Ms Hallie CHAN	Head (Public Information)
Ms Amy YU	Chief Council Secretary (2)6
Mr Anthony CHU	Chief Council Secretary (4)1
Mr Timothy TSO	Assistant Legal Adviser 2
Ms Vanessa CHENG	Assistant Legal Adviser 5
Ms Wendy KAN	Assistant Legal Adviser 6
Miss Winnie LO	Assistant Legal Adviser 7
Mr YICK Wing-kin	Assistant Legal Adviser 8
Miss Evelyn LEE	Assistant Legal Adviser 10
Miss Mimi CHANG	Assistant Legal Adviser 11
Miss Josephine SO	Senior Council Secretary (2)6
Ms Jasmine TAM	Senior Council Secretary (2)8
Miss Karen LAI	Council Secretary (2)6
Mr Ringo LEE	Senior Legislative Assistant (2)1
Ms Anna CHEUNG	Senior Legislative Assistant (2)3
Mr Arthur KAN	Legislative Assistant (2)7

Action

I. Election of the Chairman and Deputy Chairman of the House Committee for the 2014-2015 session

Election of Chairman

Mr Andrew LEUNG, the incumbent Chairman, called for nominations for the chairmanship of the House Committee ("HC") for the 2014-2015 session. Mr Andrew LEUNG was nominated by Mr CHAN Kam-lam and the nomination was seconded by Mr IP Kwok-him. Mr Andrew LEUNG accepted the nomination.

Action

2. Mr Ronny TONG, the incumbent Deputy Chairman, took over from Mr Andrew LEUNG to preside over the election. He invited other nominations for the chairmanship. Mr LEUNG Kwok-hung was nominated by Mr CHAN Chi-chuen and the nomination was seconded by Mr Albert CHAN. Mr LEUNG Kwok-hung accepted the nomination. Mr Gary FAN was nominated by Mr Albert CHAN and the nomination was seconded by Dr KWOK Ka-ki. Mr Gary FAN accepted the nomination. No further valid nominations were made.

3. Mr Albert CHAN proposed that the three candidates be given one minute each to present their election platform. Members raised no objection.

4. Mr Andrew LEUNG said that he would continue to strive to ensure that the meetings of HC were conducted in accordance with the relevant rules and procedures of the Legislative Council ("LegCo").

5. Mr LEUNG Kwok-hung said that if he was elected as the Chairman of HC, he would seek the consent of the Central Government leaders and the Chief Executive ("CE") as well as soliciting the views of Members of different political affiliations on matters concerned before calling each HC meeting, so as to ensure that any proposals put forward for consideration by HC would be endorsed.

6. Mr Gary FAN considered that Mr Andrew LEUNG, as the Chairman of HC, was biased towards the Administration in handling his earlier requests for discussion by HC of his proposal to seek the Council's authorization for the appointment of a select committee to inquire into the delay in the construction works of the Hong Kong section of the Guangzhou-Shenzhen-Hong Kong Express Rail Link. He undertook that if he was elected as the Chairman of HC, he would chair the meetings of HC in a fair and impartial manner and in accordance with the relevant rules and procedures of LegCo.

7. Mr Ronny TONG announced a vote by secret ballot. The result of the vote was that 39 Members voted for Mr Andrew LEUNG, 14 Members voted for Mr LEUNG Kwok-hung and six Members voted for Mr Gary FAN. Mr TONG declared Mr Andrew LEUNG elected as the Chairman of HC for the 2014-2015 session. Mr Andrew LEUNG then took the chair.

Action

Election of Deputy Chairman

8. The Chairman called for nominations for the deputy chairmanship of HC for the 2014-2015 session. Mr Ronny TONG was nominated by Dr Helena WONG and the nomination was seconded by Mr Kenneth LEUNG. Mr Ronny TONG accepted the nomination.

9. As there was no other nomination, the Chairman declared Mr Ronny TONG elected as the Deputy Chairman of HC for the 2014-2015 session.

II. Confirmation of the minutes of the 31st meeting held on 4 July 2014
(LC Paper No. CB(2)2346/13-14 issued vide LC Paper No. CB(2)2358/13-14 dated 29 September 2014)

10. The minutes were confirmed.

III. Matters arising

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

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

IV. Business arising from previous Council meetings

(a) Legal Service Division reports on bills referred to the House Committee in accordance with Rule 54(4)

(i) Veterinary Surgeons Registration (Amendment) Bill 2014
(LC Paper No. LS77/13-14 issued vide LC Paper No. CB(2)2358/13-14 dated 29 September 2014)

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

13. Ms Cyd HO considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Ms Cyd HO, Mr Steven HO, Dr Kenneth CHAN and Miss Alice MAK.

(ii) Land (Miscellaneous Provisions) (Amendment) Bill 2014
(LC Paper No. LS76/13-14 issued vide LC Paper No. CB(2)2358/13-14 dated 29 September 2014)

14. At the invitation of the Chairman, LA briefed Members on the LSD report on the Bill.

15. Mr WU Chi-wai considered it necessary to form a Bills Committee to study the Bill in detail. Members agreed. The following Members agreed to join the Bills Committee: Ms Cyd HO, Mr WU Chi-wai, Mr Albert CHAN, Dr Kenneth CHAN and Mr Tony TSE.

(b) Legal Service Division report on subsidiary legislation gazetted between 4 July and 19 September 2014

(LC Paper No. LS78/13-14 issued vide LC Paper No. CB(2)2362/13-14 dated 30 September 2014)
(LC Paper No. LS80/13-14)

16. At the invitation of the Chairman, LA briefed Members on the LSD reports on the 11 items of subsidiary legislation which were gazetted between 4 July and 19 September 2014 (i.e. L.N. 103 to L.N. 113). Of these, eight items (i.e. L.N. 103 to L.N. 110) were tabled in Council on 9 July 2014 and three items (i.e. L.N. 111 to L.N. 113) were not required to be tabled in Council. LA further advised that in the light of the President's decision to change the date of the first Council meeting of the 2014-2015 session from 8 October 2014 to 15 October 2014, the deadline for amending L.N. 103 to L.N. 110 was the Council meeting of 22 October 2014, or that of 12 November 2014 if extended by a resolution of the Council.

17. Members did not raise any question on these items of subsidiary legislation.

(c) Legal Service Division report on subsidiary legislation gazetted on 26 September 2014

(LC Paper No. LS79/13-14 issued vide LC Paper No. CB(2)2362/13-14 dated 30 September 2014)

18. At the invitation of the Chairman, LA briefed Members on the LSD report on the two items of subsidiary legislation gazetted on 26 September 2014, i.e. the United Nations Sanctions (Côte d'Ivoire) Regulation 2014 (L.N. 114) and the United Nations Sanctions (Democratic People's Republic of Korea) (Amendment) Regulation 2014 (L.N. 115), which were made under the United Nations Sanctions Ordinance (Cap. 537) and not required to be tabled in Council.

Action

19. Members agreed that the two Regulations be referred to the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relation to Sanctions as they came within the Subcommittee's terms of reference.

(d) Legal Service Division report on subsidiary legislation gazetted on 3 October 2014

(LC Paper No. LS1/14-15)

20. At the invitation of the Chairman, LA briefed Members on the LSD Report on the two items of subsidiary legislation (i.e. L.N. 116 and L.N. 117) which were gazetted on 3 October 2014 and would be tabled in Council on 15 October 2014

21. Members did not raise any question on these items of subsidiary legislation.

22. The Chairman reminded Members that the deadline for amending these items of subsidiary legislation was the Council meeting of 12 November 2014.

V. Business for the Council meeting of 15 October 2014

23. The Chairman said that the agenda items originally scheduled for the Council meeting of 8 October 2014 would be dealt with at the Council meeting of 15 October 2014.

(a) Questions

(LC Paper No. CB(3)25/14-15)

24. The Chairman informed Members that 22 questions (six oral and 16 written) had been scheduled for the meeting.

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

District Cooling Services Bill

25. The Chairman informed Members that HC would consider the above Bill at its next meeting on 17 October 2014.

(c) **Motion for the adjournment of the Council**

Adjournment motion on "The handling of people's assemblies by the SAR Government and the Hong Kong Police since 26 September this year" to be moved by Hon Alan LEONG under Rule 16(2) of the Rules of Procedure

(Wording of the motion issued vide LC Paper No. CB(3)17/14-15 dated 3 October 2014)

26. Members noted that a debate on the above adjournment motion would be held at the meeting.

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

Marriage (Amendment) Bill 2014

27. Members noted that the Second Reading debate on the above Bill would be resumed at the meeting.

(e) **Government motions**

(i) **Proposed resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) to be moved by the Secretary for Commerce and Economic Development**

(Wording of the proposed resolution issued vide LC Paper No. CB(3)723/13-14 dated 16 June 2014)

(ii) **Proposed resolution under section 29 of the Pharmacy and Poisons Ordinance (Cap. 138) to be moved by the Secretary for Food and Health**

(Wording of the proposed resolution issued vide LC Paper No. CB(3)735/13-14 dated 19 June 2014)

28. Members noted that the Administration would move the above two proposed resolutions at the meeting.

(f) **Members' motions**

(i) **Motion on "Returning a happy childhood to students" to be moved by Hon Michael TIEN**

(Wording of the motion issued vide LC Paper No. CB(3)622/13-14 dated 8 May 2014)

Action

- (ii) **Motion on "Reorganising the Government's structure to improve its policy implementation" to be moved by Hon Kenneth LEUNG**

(Wording of the motion issued vide LC Paper No. CB(3)625/13-14 dated 9 May 2014)

- (iii) **Adjournment motion on "The security arrangements adopted by the Legislative Council in respect of large-scale public events" to be moved by Hon WONG Yuk-man under Rule 16(4) of the Rules of Procedure**

(Wording of the motion issued vide LC Paper No. CB(3)771/13-14 dated 30 June 2014)

29. Members noted that debates on the above Members' motions and adjournment motion would be held at the meeting.

VI. The Chief Executive's Question and Answer Session on 16 October 2014

30. The Chairman informed Members that the CE's Question and Answer Session would be held from 9:30 am to 11:00 am. CE had indicated that he had no preference for Members to focus their questions on any particular area.

(Post-meeting note: The Administration decided on 15 October 2014 to defer the CE's Question and Answer Session originally scheduled for 16 October 2014.)

VII. Business for the Council meeting of 22 October 2014

(a) **Questions**

(LC Paper No. CB(3)29/14-15)

31. The Chairman informed Members that 22 questions (six oral and 16 written) had been scheduled for the meeting.

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

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

(c) **Government motion**

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

(d) **Members' motions**

- (i) **Motion on "Concern about the integration and conflicts between Hong Kong and the Mainland" to be moved by Dr Hon LAM Tai-fai**

(Wording of the motion issued vide LC Paper No. CB(3)642/13-14 dated 15 May 2014)

- (ii) **Motion on "Devising the constitution by all people, making a new covenant, and realizing genuine 'Hong Kong people ruling Hong Kong'" to be moved by Hon WONG Yuk-man**

(Wording of the motion issued vide LC Paper No. CB(3)645/13-14 dated 16 May 2014)

34. Members noted that debates on the above two Members' motions would be held at the meeting.

Report of HC on Consideration of Subsidiary Legislation

35. The Chairman invited Members to note the list tabled at the meeting (LC Paper No. CB(3)31/14-15), which contained 16 items of subsidiary legislation the period for amendment of which would expire at the Council meeting of 22 October 2014. He reminded Members to indicate their intention by 5:00 pm on Tuesday, 14 October 2014, should they wish to speak on any of these items of subsidiary legislation.

VIII. Reports of Bills Committees and subcommittees

- (a) **Report of the Bills Committee on Child Abduction Legislation (Miscellaneous Amendments) Bill 2013**

(LC Paper No. CB(2)15/14-15)

36. Mr Dennis KWOK, Chairman of the Bills Committee, briefed Members on the deliberations of the Bills Committee as detailed in its report. Members noted that in the light of the views and suggestions of members of the Bills Committee, the Administration would move a number of Committee stage amendments to the Bill. The Bills Committee supported the proposed amendments and raised no objection to the resumption of Second Reading debate on the Bill. Members also noted that the Administration had indicated its intention to resume the Second Reading debate on the Bill at the Council meeting of 22 October 2014.

Action

37. The Chairman reminded Members that the deadline for giving notice of amendments proposed to be moved to the Bill was Monday, 13 October 2014.

(Post-meeting note: The Administration informed the Chairman on 15 October 2014 that it would not resume the Second Reading debate on the above Bill at the Council meeting of 22 October 2014 as originally intended and would consult the Chairman again on the intended date to resume the Second Reading debate on the Bill in due course.)

(b) Report of the Bills Committee on Competition (Amendment) Bill 2014

(LC Paper No. CB(1)3/14-15)

38. In his capacity as the Chairman of the Bills Committee, the Chairman briefed Members on the deliberations of the Bills Committee as detailed in its report. Members noted that the Bills Committee supported the Committee stage amendments proposed by the Administration which were technical in nature and raised no objection to the resumption of the Second Reading debate on the Bill at a future Council meeting.

IX. Position on Bills Committees and subcommittees

(LC Paper No. CB(2)3/14-15)

39. The Chairman said that as at 9 October 2014, there were 16 Bills Committees (12 of which would need to work beyond three months since their commencement), eight subcommittees under HC and nine subcommittees on policy issues under Panels in action.

X. Priority allocation of a debate slot for a motion debate on the Report of the Joint Subcommittee on Long-term Care Policy

(LC Paper No. CB(2)2265/13-14 issued vide LC Paper No. CB(2)2358/13-14 dated 29 September 2014)

40. Dr Fernando CHEUNG, Chairman of the Joint Subcommittee on Long-term Care Policy ("the Joint Subcommittee"), said that in view of the wide public concern on long-term care policy and services, the Panel of Welfare Services and Panel of Health Services had endorsed the Joint Subcommittee's recommendation to seek HC's support for priority allocation of a debate slot under rule 14A(h) of the House Rules to him, as

Action

Chairman of the Joint Subcommittee, for moving a motion for debate on the Report of the Joint Subcommittee at the Council meeting of 29 October 2014. The debate would provide an opportunity for Members to express views on the subject and for the Administration to respond. Dr CHEUNG further explained that as the Council meeting of 8 October 2014 was rescheduled for 15 October 2014, the proposed date for moving the motion on the Joint Subcommittee Report was accordingly changed to the Council meeting of 5 November 2014.

41. Members agreed to the priority allocation of a debate slot to Dr Fernando CHEUNG for moving a motion on the Joint Subcommittee Report at the Council meeting of 5 November 2014. Members also agreed to the Joint Subcommittee's proposal that in addition to the debate on the Report, only one other debate on a motion without legislative effect should be held at the Council meeting.

XI. Paper of the Committee on Rules of Procedure

Proposed amendments to Rule 17(3) of the Rules of Procedure and rule 28 of the House Rules

(LC Paper No. CROP91/13-14 issued vide LC Paper No. CB(2)2358/13-14 dated 29 September 2014)

42. Mr TAM Yiu-chung, Chairman of the Committee on Rules of Procedure ("CRoP"), briefed Members on CRoP's proposed amendment to Rule 17(3) of the Rules of Procedure ("RoP") relating to adjournment of the Council due to the lack of a quorum. Mr TAM explained that the existing RoP 17(3), which was based on the practice of Westminster-style parliaments, did not reflect the existing practice of the Council that after the quorum bell had been rung for 15 minutes in a committee of the whole Council and a quorum was not then present, the Council would be resumed and the President would adjourn the Council without ordering a headcount again. CRoP therefore proposed to amend RoP 17(3) to reflect the existing practice of the Council. Mr TAM further said that CRoP also proposed textual amendments to rule 28 of the House Rules to enhance its clarity and to align with the terminology currently used by the Hong Kong Observatory relating to arrangements for committee meetings when a Tropical Cyclone Warning Signal No. 8 or above or a Black Rainstorm Warning Signal was issued. Mr TAM added that subject to Members' views, he, as the Chairman of CRoP, would move a motion at the Council meeting of 29 October 2014 to amend RoP 17(3).

43. Members agreed to the proposed amendments to RoP 17(3) and rule 28 of the House Rules.

Action

44. In response to Mr LEUNG Kwok-hung's enquiry, the Secretary General ("SG") advised that the Secretariat had all along used "威斯敏斯特" as the Chinese translation of "Westminster" in the papers it prepared. Mr LEUNG Kwok-hung, Ms Claudia MO and Mr Albert CHAN were of the view that it was more appropriate to use "西敏寺" instead of "威斯敏斯特" as the Chinese translation of "Westminster".

XII. Issues relating to the recent assemblies and occupation of roads arising from these assemblies

- (a) **Proposal of Hon WONG Yuk-man to seek the Council's authorization for the appointment of a select committee**
(Letter dated 6 October 2014 from Hon WONG Yuk-man (LC Paper No. CB(2)21/14-15(01)))
- (b) **Proposal of Hon Frederick FUNG to ask an urgent oral question under Rule 24(4) of the Rules of Procedure at the Council meeting of 15 October 2014**
(Letter dated 7 October 2014 from Hon Frederick FUNG (LC Paper No. CB(2)21/14-15(02)))
- (c) **Proposal of Dr Hon Helena WONG to ask an urgent oral question under Rule 24(4) of the Rules of Procedure at the Council meeting of 15 October 2014**
(Letter dated 7 October 2014 from Dr Hon Helena WONG (LC Paper No. CB(2)21/14-15(03)))
- (d) **Proposal of Hon Cyd HO to ask an urgent oral question under Rule 24(4) of the Rules of Procedure at the Council meeting of 15 October 2014**
(Letter dated 8 October 2014 from Hon Cyd HO (LC Paper No. CB(2)27/14-15(01)))
- (e) **Proposal of Dr Hon KWOK Ka-ki to ask an urgent oral question under Rule 24(4) of the Rules of Procedure at the Council meeting of 15 October 2014**
(Letter dated 8 October 2014 from Dr Hon KWOK Ka-ki (LC Paper No. CB(2)27/14-15(02)))
- (f) **Proposal of Hon Jeffrey LAM to seek the Council's authorization for the appointment of a select committee**
(Letter dated 8 October 2014 from Hon Jeffrey LAM (LC Paper No. CB(2)27/14-15(03)))

Action

(g) Proposal of Hon TAM Yiu-chung to ask an urgent oral question under Rule 24(4) of the Rules of Procedure at the Council meeting of 15 October 2014

(Letter dated 9 October 2014 from Hon TAM Yiu-chung (LC Paper No. CB(2)41/14-15(01)))

45. The Chairman said that a total of seven Members had written to him requesting discussion at this meeting of their proposals on issues relating to the recent assemblies and occupation of roads arising from these assemblies. Of these seven Members, Mr Frederick FUNG, Dr Helena WONG, Ms Cyd HO, Dr KWOK Ka-ki and Mr TAM Yiu-chung had proposed to ask urgent oral questions under RoP 24(4) at the Council meeting of 15 October 2014, whereas Mr WONG Yuk-man and Mr Jeffrey LAM had proposed to seek the Council's authorization for the appointment of select committees. To facilitate Members' discussion, he proposed that HC should first discuss the five proposals for asking urgent oral questions, which he reckoned were less controversial, before considering the two proposals for the appointment of select committees.

46. Mr WONG Yuk-man expressed objection to the proposed arrangement. He requested that his proposal be dealt with first, given that it was raised before the other six proposals.

47. Mr LEUNG Kwok-hung said that as the powers under the Legislative Council (Powers and Privileges) Ordinance (Cap. 382) ("the P&P Ordinance") to conduct inquiries into issues of public importance were major powers vested in LegCo, he considered that the two proposals concerning the appointment of select committees should be discussed first.

48. The Chairman put to vote his proposal for HC to discuss the five proposals for asking urgent oral questions under Rule 24(4) of RoP at the Council meeting of 15 October 2014 before considering the two proposals for seeking the Council's authorization for the appointment of select committees. The Chairman ordered a division.

The following Members voted in favour of the proposal:

Mr CHAN Kam-lam, Dr LAU Wong-fat, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, Mr CHAN Hak-kan, Mr CHAN Kin-por, Dr Priscilla LEUNG, Mr WONG Kwok-kin, Mr IP Kwok-him, Mrs Regina IP, Mr Paul TSE, Mr Michael TIEN, Mr NG Leung-sing, Mr Steven HO, Mr Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Miss CHAN

Action

Yuen-han, Mr LEUNG Che-cheung, Miss Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr Christopher CHUNG and Mr Tony TSE.

(36 Members)

The following Members voted against the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Ms Emily LAU, Mr Frederick FUNG, Mr Ronny TONG, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, 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, Dr Helena WONG and Mr IP Kin-yuen.

(25 Members)

49. The Chairman declared that 36 Members voted for and 25 Members voted against the proposal, and no Member abstained from voting. The Chairman declared that the proposal was supported.

Proposals to ask urgent oral questions under RoP 24(4) at the Council meeting of 15 October 2014

50. The Chairman then invited the five Members concerned to present their proposals to ask urgent oral questions.

51. Mr Frederick FUNG said that he had made a request for asking an urgent oral question at the Council meeting of 15 October 2014 regarding the use of tear gas by the Police against the protestors on 28 September 2014. Given that there was wide public concern about the criteria adopted by the Police for using tear gas and the protests were still ongoing, he considered it necessary to seek urgent clarifications from the Police.

52. Dr Helena WONG said that it had been reported that some participants of the "Occupy Central" movement and journalists were assaulted or indecently assaulted at the assembly in Mong Kok on 3 and 4 October 2014. There were also allegations that these attacks were launched by triad gangs with the connivance of and even in collusion with the Police. As the allegations were serious and the assemblies were continuing, it was necessary to seek the Administration's urgent response on whether any review had been conducted on the Police's handling of the incidents of attacks and the measures to be taken by the Police to ensure the safety of the assembly participants.

Action

53. Ms Cyd HO said that the Police's use of tear gas to disperse the participants of the peaceful assemblies on 28 September 2014 and the rumours that the Police would fire bullets against these participants had aroused grave public concern. As it was generally considered that the use of force should be avoided in dispersing participants of peaceful assemblies, there was an urgent need to seek the Administration's explanation for the decision-making mechanism in place for the use of force by the Police in handling these assemblies.

54. Dr KWOK Ka-ki said that the Police displayed a banner with the words "Warning - tear gas" on one side and "Disperse, or the Police will fire" on the other side to the unarmed and peaceful protestors on 28 September 2014. He was concerned that the use of such two-sided banners could send off wrong messages to protestors and cause panic among them. Given that the assemblies were still persisting and the Police might take further actions to disperse the participants, he considered it necessary to obtain urgent clarification from the Police on its mechanism for displaying warning messages/banners to protestors.

55. Mr TAM Yiu-chung said that the blockage of a number of major trunk roads on Hong Kong Island and in Kowloon arising from the "Occupy Central" movement had not only caused serious disruptions to various road transport services and significant loss to local businesses but also adversely affected the provision of emergency rescue service. Given the ongoing development of the "Occupy Central" movement, he considered it necessary to seek the Administration's urgent response on whether any contingency measures had been formulated to alleviate the various impacts of the blockage of roads arising from the movement.

56. The Chairman invited Members' views on the five Members' proposals.

57. Mrs Regina IP said that she supported Mr TAM Yiu-chung's proposal as many members of the public whose daily life and income had been affected by the occupation of roads arising from the recent assemblies were eager to know how the Administration would resolve the situation. As regards the proposals of the other four Members to ask urgent oral questions which focused on the Police's handling of the assemblies, she noted from a newspaper report that the relevant Police Senior Superintendent who was in charge of handling the assemblies on 28 September 2014 had already given a full account of his decision to use tear gas to disperse the protestors. She considered that there was no urgency in asking the proposed questions raised by the four Members, who might follow up the matter through the Panel on Security if they so wished.

Action

58. Mr Paul TSE said he agreed that the oral question proposed by Mr TAM Yiu-chung was of an urgent character and related to a matter of public importance, especially as it had been reported that the protesters were contemplating occupying some of the major tunnels and railway stations in Hong Kong. While he considered that the other four proposed oral questions concerning the Police's handling of the recent assemblies were also of an urgent character given that the assemblies were still ongoing, he suggested that the four questions be dealt with jointly and a consolidated response be obtained from the Police.

59. As no other Members had expressed further views, the Chairman concluded that the proposals of the five Members to ask urgent oral questions under RoP 24(4) at the Council meeting of 15 October 2014 were agreed to.

Proposals to seek the Council's authorization for the appointment of select committees

60. Mr WONG Yuk-man said that the incidents of mobsters' attacks on the participants of the peaceful assembly in Mong Kok on 3 October 2014 had been extensively reported by the media. As revealed from various press reports and video footages, the attacks were launched in a highly organized manner and some police officers had allegedly connived at the violent acts of the mobsters or even assisted them in leaving the scenes. Given that the Police's handling of the attacks had seriously undermined its image and raised doubt on whether the attacks were ordered by CE or the Liaison Office of the Central People's Government in the Hong Kong Special Administrative Region ("HKSAR") in a bid to suppress the recent peaceful occupation of streets initiated and organized by the students and other members of the public, he considered it necessary to seek the Council's authorization to appoint a select committee to exercise the powers under the P&P Ordinance to inquire into the matter.

61. Mr Jeffrey LAM said that the society of Hong Kong had entered into a state of instability and divisions since the commencement of the "Occupy Central" movement. The unlawful and prolonged occupation of roads by the participants of the movement and other members of the public had given rise to serious traffic congestion and brought much inconvenience to people's lives, resulting in eruption of confrontations between people for and against the movement as well as conflicts among family members and friends. He therefore considered it necessary for LegCo to appoint a select committee to conduct a comprehensive inquiry into the causes, organization and sources of funding of the unlawful occupation of roads arising from the movement, the Administration's handling of the occupation activities and the impact of these activities on Hong Kong, and all other related matters.

Action

62. The Deputy Chairman opined that LegCo should exercise its powers under the P&P Ordinance to monitor whether the Government and the law enforcement agencies had abused their powers in carrying out their duties, and not to inquire into the way in which members of the public exercised their rights to freedom of speech, assembly and demonstration, as doing so would undermine the exercise of these fundamental rights enshrined under the Basic Law ("BL"). He called on Mr Jeffrey LAM to state clearly in his motion that the subject of the proposed inquiry was the Government and the Police, rather than individual members of the public.

63. In response to the Deputy Chairman's enquiry, SG advised that LegCo had not conducted any inquiries the subject of which concerned the exercise of freedom of speech, assembly and demonstration by members of the public.

64. Mr Jeffrey LAM stressed that given the significant impact of the occupation activities on the society, it was necessary for LegCo to conduct a full inquiry into the matter. He pointed out that there were past cases where the subjects of the inquiries conducted by LegCo included non-government bodies and individual members of the public were summoned to give evidence. For instance, the former Subcommittee to study issues arising from Lehman Brothers-related minibonds and structured financial products had invited financial institutions concerned and individual aggrieved investors to assist in its study.

65. Mr Gary FAN said that while at least 40 members of the public were injured in the large-scale attacks on the protestors in Mong Kok allegedly launched by triad gangs on 3 October 2014, it was not until 8 October 2014 that the Police arrested 39 suspects and confirmed that some of them were associated with triad gangs. Given that the Police's handling of these attacks, which was in stark contrast to its decision to fire tear gas against the peaceful protestors on 28 September 2014, had caused a huge public uproar and queries had been raised about whether the Police had connived at these attacks, he considered that LegCo was duty bound to conduct a full inquiry into the matter to find out the truth for the public.

66. Mr IP Kwok-him said that while he was in support of peaceful and lawful demonstrations, he could not support the current unlawful occupation of roads by the protestors which had paralyzed the traffic in various parts of the Hong Kong Island and Kowloon. Mr IP further said that as Mr WONG Yuk-man appeared to have already presumed in his proposal that the Police were associated with triad gangs, Members

Action

belonging to the Democratic Alliance for the Betterment and Progress of Hong Kong ("DAB") would not support Mr WONG's proposal. On the other hand, given that Mr Jeffrey LAM's proposed motion was neutrally worded and the scope of the proposed inquiry, which covered the Administration's handling of the occupation activities, was broad and comprehensive, DAB Members supported Mr LAM's proposal.

67. Mr LEE Cheuk-yan said that Members belonging to the Labour Party supported Mr WONG Yuk-man's proposal, as they considered it vital for LegCo to find out whether the Police had connived at the triad gangs' attacks against the protestors. However, Members belonging to the Labour Party were opposed to Mr Jeffrey LAM's proposal because LegCo should not take on the role of a national security or intelligence agency and abuse its powers to inquire into the organization and sources of funding of the recent community-driven occupation activities. In the view of the Labour Party, the occupation activities arose mainly from the public's dissatisfaction with CE's report to the Standing Committee of the National People's Congress ("NPCSC") regarding the methods for selecting CE in 2017 and for forming LegCo in 2016 and the decision of NPCSC on the matter.

68. Ms Emily LAU said that she was in support of Mr WONG Yuk-man proposal's given the grave concern and queries raised by the public and the international media about the Police's handling of the triad gangs' attacks against the participants of recent assemblies. As regards Mr Jeffrey LAM's proposal, she shared the Deputy Chairman's view that the powers of LegCo should be exercised to monitor whether the Government had abused its powers, and not to be used as a tool to create "white terror" among members of the public who had resorted to civil disobedience and taken part in the recent assemblies and occupation activities. She therefore considered it grossly unacceptable for LegCo to invoke the powers under the P&P Ordinance to inquire into these assemblies and occupation activities which had all along been conducted peacefully and rationally.

69. Dr Priscilla LEUNG said that the recent assemblies and occupation activities were unlawful and the fact that the participants had behaved peacefully should not be taken as an excuse to justify their acts. She was especially concerned that some secondary school teachers had encouraged their students to boycott classes and join these unlawful activities which had seriously disrupted social order. As it had been reported that the recent assemblies and occupation activities were allegedly organized and assisted by foreign powers and these prolonged activities had already created deep divisions within the community and led to significant economic loss, there was strong public demand for LegCo to conduct a full inquiry to clear the doubts surrounding the matter.

Action

70. Ms Cyd HO expressed support for Mr WONG Yuk-man's proposal and suggested that the proposed inquiry should also seek to find out whether any off-duty police officers had taken part in the attacks against the protestors. Ms HO further said that while it was appropriate for LegCo to identify the causes of the recent occupation activities and examine why so many members of the public were willing to participate in these activities at the risk of breaking the law, she was opposed to Mr Jeffrey LAM's proposal for conducting an inquiry which focused on participants of the occupation activities. She suggested that the Panel on Constitutional Affairs should consider holding public hearings to provide a platform for over 100 000 participants of the occupation activities to express their views on the "Occupy Central" movement.

71. Mrs Regina IP said that while she trusted that many members of the public had joined the recent assemblies at their own will and had behaved peacefully, these assemblies were unlawful in nature. She also considered it noteworthy that a large number of government mills barriers and roadside barriers had been stolen and used for blocking the roads, which was clearly an offence and warranted investigation by LegCo.

72. Dr Fernando CHEUNG said that it was the Police's and not LegCo's duty to investigate the unlawful acts of individual members of the public, and LegCo should be responsible for monitoring the work of the Government. He expressed strong dissatisfaction with the view of some Members belonging to the pro-establishment camp that LegCo should invoke the powers under the P&P Ordinance to inquire into the organization and sources of funding of the recent assemblies, which, in his view, was intended to create "white terror" among the participants of the assemblies. On the other hand, the recent incidents of attacks against the participants of the assemblies had been extensively reported by both local and international media and the Police had been accused of colluding with the triad gangs in launching the attacks. Given the gravity of such allegations, it was incumbent upon LegCo to conduct an inquiry into the matter to find out the truth for the public.

73. Mr Alan LEONG queried whether Mr Jeffrey LAM's proposal for LegCo to conduct an inquiry into the causes and organization of the occupation of roads arising from the recent assemblies was in compliance with the powers and functions of LegCo as provided under BL 73. He stressed that under the principle of separation of powers, the Legislature and the Executive Authorities should operate independently and the former should not take over the latter's responsibilities. In his view, using the powers under the P&P Ordinance to inquire into activities initiated by members of the public as proposed by Mr LAM was an abuse of the powers of LegCo and would set a dangerous precedent. He also

Action

considered it not viable for LegCo to conduct the proposed inquiry given that the scope of the inquiry was too broad and the number of witnesses to be summoned would be huge. He sought advice from LA on whether the proposed inquiry was in compliance with the constitutional principle of separation of powers and the relevant provisions of the P&P Ordinance. He added that Members belonging to the Civic Party were opposed to Mr LAM's proposal.

74. Mr WONG Kwok-hing said that he supported Mr Jeffrey LAM's proposal but opposed Mr WONG Yuk-man's proposal for several reasons. First, the scope of the inquiry proposed in Mr LAM's motion had already covered the subject matter proposed in Mr WONG's motion. Second, there was a conflict of roles on the part of Mr WONG given that he had participated in the assembly in Mong Kok. Mr WONG criticized Members belonging to the pan-democratic camp for distorting Mr Jeffrey LAM's proposal by claiming that the proposed inquiry was targeted at members of the public and an attempt to create "white terror" among participants of the "Occupy Central" movement. He added that these Members should have nothing to fear from the proposed inquiry if they had nothing to hide.

75. Mr WU Chi-wai pointed out that more than 100 000 members of the public had joined the occupation of roads to express their frustration and strong dissatisfaction with the governance of the HKSAR Government and its failure to respond to their aspirations for genuine universal suffrage. These members of the public were fully aware that they were engaging in a civil disobedience movement which was potentially unlawful and they might be subject to arrest and legal liability. Mr WU stressed that it was for the Police, and not LegCo, to investigate into the conduct of the participants of the assemblies. He further remarked that Mr Jeffrey LAM's proposal seemed to suggest that these activities were organized and supported by foreign powers. Such an attempt to make groundless allegations against a peaceful and rational movement initiated by members of the public had violated the fundamental principle of safeguarding the freedom of speech and assembly in Hong Kong. He said that Members belonging to the Democratic Party were opposed to Mr LAM's proposal.

76. Dr Helena WONG said that she was supportive of Mr WONG Yuk-man's proposal to invoke the powers under the P&P Ordinance to inquire into the Police's handling of the attacks against the participants of recent assemblies. She was however strongly opposed to Mr Jeffrey LAM's proposal to invoke the powers under the P&P Ordinance to inquire into the occupation of roads arising from these assemblies, which was clearly not viable given the huge number of participants involved. She

Action

also criticized Members belonging to the pro-establishment camp for attempting to mislead the public into believing that the participants were abetted in joining the assemblies.

77. Dr KWOK Ka-ki said that he was supportive of Mr WONG Yuk-man's proposal, but considered Mr Jeffrey LAM's proposal far from acceptable. He stressed that the most important function of LegCo stipulated under BL 73 was to monitor the work of the Government, and the powers vested in LegCo under the P&P Ordinance should be used to inquire into the Police's handling of the assemblies and the dereliction of duties of CE, and not the 200 000 participants of the "Occupy Central" movement who were fighting for the implementation of genuine universal suffrage in Hong Kong. In his view, Mr LAM's proposal was an attempt to smear the movement.

78. Ms Starry LEE supported Mr Jeffrey LAM's proposal for LegCo to initiate an inquiry into the large-scale unlawful occupation movement, which had already persisted for more than 10 days with no end in sight. She remarked that the organizers of the "Occupy Central" movement all along had the ill-intended motive of paralyzing the functioning of the Hong Kong society, with a view to coercing the HKSAR Government and the Central Authorities. As the movement had caused extensive impacts on Hong Kong, it was incumbent upon LegCo to find out what was happening. Citing the case where P&P powers were invoked to inquire into issues arising from the Lehman Brothers-related minibonds which involved a large number of individual aggrieved investors, Ms LEE said that she trusted that members of the proposed select committee, if appointed, would exercise their wisdom to summon a reasonable number of witnesses.

79. Mr Charles MOK strongly criticized Members belonging to the pro-establishment camp for abusing the powers vested in LegCo under the P&P Ordinance to investigate members of the public. He emphasized that such powers should be used to monitor the Government, not the public. In response to some Members' comment that the assemblies and occupation of roads were unlawful, Mr MOK said that it was for the Police to initiate investigation and the court to make a judgment on whether such activities were unlawful.

80. Mr CHAN Chi-chuen said that he supported Mr WONG Yuk-man's proposal and considered it necessary to probe into issues relating to the Police's handling of attacks against the participants of the assembly in Mong Kok on 3 October 2014, including whether the Police had, in any way, connived at or colluded with triad gangs in the attacks. He further said that he could not subscribe to the view that Mr WONG Yuk-man had

Action

conflict of roles in putting forward the proposal on the ground that he himself was a participant of the assembly in Mong Kok. As regards Mr Jeffrey LAM's proposal, Mr CHAN opined that instead of conducting the proposed inquiry by LegCo, it was more practicable for the Police to arrest the organizers of the "Occupy Central" movement, the student leaders as well as the pan-democratic Members concerned and initiate an investigation into the matter.

81. Mr NG Leung-sing expressed support for Mr Jeffery LAM's proposal. He pointed out that the blockage of roads arising from the recent assemblies had already caused serious disruptions to the daily life of many Hong Kong people and significant loss to businesses, jeopardizing public order and safety. He considered that LegCo was duty bound to discharge its constitutional responsibilities under BL 73(6) to inquire into the matter given that significant public interests were at stake.

82. Mr YIU Si-wing said that the "Occupy Central" movement had seriously disrupted Hong Kong's economy, people's livelihood and the traffic. There were also many rumours going round about the "Occupy Central" movement, including that foreign powers were using it as a tool to attack the Central Authorities and that the Police were working with triad gangs to disperse the protesters. In view of the public interests involved, he supported Mr Jeffery LAM's proposal to invoke the powers under the P&P Ordinance to conduct an inquiry into the matter to find out the truth for the public. He stressed that the subjects of the proposed inquiry should include the organizers of the "Occupy Central" movement, the Police as well as the Government.

83. Ir Dr LO Wai-kwok shared the view that Mr Jeffrey LAM's proposal had already covered the gist of Mr WONG Yuk-man's proposal. In his view, there was no cause for concern that all the participants of the assemblies would be summoned to give evidence should the inquiry proposed by Mr LAM be conducted. He pointed out that it was for the proposed select committee, if appointed, to work out its own practice and procedure, including the witnesses to be summoned.

84. Mr Albert HO stressed that the most important duty of LegCo was to monitor the work of the Government and public bodies, while the responsibility to investigate unlawful activities in society rested with the relevant law enforcement agencies. He failed to see how the inquiry proposed by Mr Jeffrey LAM would come up with any useful results. In his view, what was truly worrying was the allegation that the Police had worked with triad gangs in the attacks against the protesters in Mong Kok on 3 October 2014.

Action

85. Mr Martin LIAO said that RoP 78(1) provided that the Council might appoint a select committee to consider matters which the Council might refer to the committee. He stressed that LegCo was vested with the powers under the P&P Ordinance to conduct inquiries into matters involving significant public interests and such powers should not be used as a political tool to justify certain preset stance or conclusions. Given that the "Occupy Central" movement had spread to various locations and the blockage of thoroughfares had already persisted for 13 days, causing serious disruptions to people's daily life, he considered it necessary for LegCo to conduct an inquiry into the matter having regard to the significant public interests at stake. In his view, the scope of the proposed inquiry should be comprehensive and conducted in a fair manner, and the subjects to be investigated should not be limited only to the Police but also the leaders of the movement.

86. Mr Frederick FUNG said that he supported Mr WONG Yuk-man's proposal but objected to Mr Jeffrey LAM's proposal. As could be seen from the video footage of news reports on the incident in Mong Kok on 3 October 2014, the Police had not taken expeditious and effective enforcement actions against those people who intimidated and assaulted the peaceful protesters. He considered it necessary for LegCo to follow up the matter which had raised broad public concern. He added that he shared the view that the powers under the P&P Ordinance should be invoked by LegCo for the purpose of monitoring the work of the Government, and not to investigate into activities of members of the public, the responsibility of which should rest with the law enforcement agencies.

87. Mr Paul TSE said that Hong Kong was facing an unprecedented crisis. In his view, it was inappropriate for LegCo to initiate an inquiry into the matter at this point of time when the "Occupy Central" movement was still going on, lest it would make things worse. Regarding the two proposals put forward respectively by Mr WONG Yuk-man and Mr Jeffrey LAM, he considered the scope of the proposed inquiry of the former too narrow for covering only the Police's handling of the confrontations between protesters of opposing camps in Mong Kok on 3 October 2014, while that of the latter too wide for lacking focus on the subjects of the investigation.

88. Dr CHIANG Lai-wan said that given the grave public concern about the "Occupy Central" movement, she considered it justifiable to invoke the powers under the P&P Ordinance to conduct a comprehensive inquiry into the matter as proposed by Mr Jeffrey LAM, so as to find out the truth and to do justice to all parties concerned, including those Members who were allegedly behind the movement. She appealed to Members to support Mr Jeffrey LAM's proposal.

89. Mr CHAN Kin-por opined that while the original plan of the "Occupy Central" movement was to mount peaceful occupation actions lasting for a few days, it had already got out of control, resulting not only in blockage of thoroughfares but also confrontations between people for and against the movement. He expressed grave concern about the serious detrimental impact of the movement on Hong Kong. Expressing support for Mr Jeffrey LAM's proposal, he said that it was plainly in the public's interest to conduct the proposed inquiry to find out the causes leading to the present predicament. He, however, did not support Mr WONG Yuk-man's proposal because he considered the scope of the proposed inquiry too narrow.

90. Mr TAM Yiu-chung said that the Hong Kong Bar Association had, in its recent statement, pointed out that the protestors' prolonged and widespread occupation of public places and roads was potentially unlawful. Regarding the proposal put forward by Mr WONG Yuk-man, Mr TAM considered it unfair and inappropriate for LegCo to initiate an inquiry merely on the basis of allegations made against the Police by certain assembly participants. On the other hand, he supported the proposal of Mr Jeffrey LAM which sought to inquire into issues arising from the recent assemblies given the significant bearings on public interests involved. On the concern raised by some pan-democratic Members that the scope of the inquiry proposed by Mr LAM was too wide, Mr TAM said that should the proposal be supported by HC, Members could further discuss and consider the need to draw up more specific terms of reference for the proposed select committee.

91. Mr Christopher CHEUNG said that the protestors' prolonged and widespread occupation of public places and roads had paralyzed the traffic in various areas, seriously affecting the functioning of the society and causing significant loss to Hong Kong's economy. Noting from some news footages that some demonstrators had attempted to break through the Police cordon, he questioned whether the "Occupy Central" movement was still a wholly peaceful movement. He expressed support for the proposal of Mr Jeffrey LAM to conduct a comprehensive inquiry into the matter, having regard to the significant impact of the occupation activities on the Hong Kong society.

92. Mr WONG Kwok-kin shared the view that Mr Jeffrey LAM's proposal could cover the main issues of concern set out in Mr WONG Yuk-man's proposal. He pointed out that under Mr LAM's proposal, the subjects of investigation were the organizers, and not the participants, of the protests. He considered that, given the significant public interests at stake, the proposed inquiry should aim at ascertaining the causes and the impacts of the occupation activities with a view to making recommendations to address the problems.

Action

93. Mr LEUNG Kwok-hung said that the participants of the "Occupy Central" movement were well aware that they would be subject to arrest and prosecution. He stressed that as LegCo was duty bound to monitor the work of the Government, the proposal of Mr WONG Yuk-man should be supported. He cautioned that invoking the powers under the P&P Ordinance to conduct an inquiry into the "Occupy Central" movement as proposed by Mr Jeffrey LAM would only incite more people to participate in the movement.

94. Dr Kenneth CHAN remarked that should Mr Jeffrey LAM's proposal to appoint a select committee to conduct a comprehensive inquiry into the "Occupy Central" movement, including its causes, be approved by the Council, the select committee concerned should summon CE and President Xi Jin-ping to give evidence, as issues relating to the implementation of "One Country, Two Systems" were involved. In Dr CHAN's view, what Hong Kong needed most at the present moment were solutions to the deep-rooted conflicts in the society, and Mr LAM's proposed inquiry would only make things worse. He objected to Mr LAM's proposal.

95. Mrs Regina IP said that according to Mr Tony Cartalucci's articles published in the Land Destroyer Report, the organizers of the "Occupy Central" movement were directly backed, funded and directed by the State Department of the United States, its National Endowment for Democracy and its subsidiary, the National Democratic Institute. She considered it necessary for LegCo to conduct an inquiry into the alleged foreign funding of the "Central Occupy" movement to find out the truth about the matter.

96. Dr Priscilla LEUNG said that it was worrying that many people taking part in the unlawful assemblies were minors who might not be aware of the risks involved in their acts. She stressed that Members should face squarely the increasing tension and confrontations between people supporting and objecting to the "Occupy Central" movement and seriously consider how to resolve the matter.

97. Dr Helena WONG stressed that students participated in the "Occupy Central" movement of their own volition. In her view, the movement would come to an end if CE resigned from office and NPCSC retracted its earlier decision on the 2017 CE election.

98. Mr Charles MOK said that the articles published in the Land Destroyer Report as referred to by Mrs Regina IP were written merely by an American based in Thailand. It was regrettable that these articles were widely cited by the pro-establishment camp to make a big fuss of the matter.

Action

99. Mr Michael TIEN was of the view that if an inquiry was to be conducted on the matter, the subjects of the inquiry should cover not only the Police, but also organizers of the protests concerned which should include organizers of both the "Occupy Central" movement and the anti-Occupy Central protests. He considered it important that the proposed inquiry, if conducted, should probe into the motives behind the protests to find out whether there were other ulterior political motives apart from the pursuit for implementation of universal suffrage in Hong Kong.

100. Mr IP Kwok-him said that he had participated in the work of several select committees in the past. According to his experience, the purpose of appointing a select committee was to study matters of grave public concern with a view to coming up with recommendations to the relevant authorities to resolve the problems or make future improvements. In his view, the grounds put forward by some Members for objecting to Mr Jeffrey LAM's proposal, such as the proposed inquiry targeting at activities of members of the public and its scope being too wide, were untenable.

101. Ms Claudia MO said that the Police's use of tear gas to disperse the crowds in Admiralty on 28 September 2014 had resulted in the spread of the occupation activities to various other areas. She expressed doubts about the Police's handling of the attacks on the participants of the assembly in Mong Kok allegedly launched by triad gangs. She said that she had participated in the assembly in Mong Kok for five days but had not seen even one police officer while she was there. She added that she was opposed to using the powers under P&P Ordinance to inquire into a civil movement.

102. Mr Albert HO said that the inquiry proposed by Mr Jeffrey LAM was based on the premises that the "Occupy Central" movement had many sources of funding and was highly organized which, he believed, was not the case. He considered it unreasonable for LegCo to initiate such a broad inquiry which was based merely on unsubstantiated premises.

103. Mr Christopher CHUNG opined that Members should carefully consider whether to conduct the proposed inquiry into the organization and sources of funding of the occupation activities, as doing so might expose cases of some Members receiving foreign funding to promote the unlawful "Occupy Central" movement which would bring about serious consequences to those Members.

Action

104. Mr KWOK Wai-keung said that while the participants of the "Occupy Central" movement had behaved in a peaceful manner, their occupation activities were unlawful in nature. He noted that there were many rumours and biased photographs circulating on the internet which, in his view, had incited many young people to join the movement. He considered it necessary to investigate the sources of such rumours and photographs. He expressed support for Mr Jeffrey LAM's proposal.

105. Mr IP Kin-yuen said that the organizers and participants of the "Occupy Central" movement were fully aware of the unlawful nature of the movement and the legal consequences they might face. In his view, the most important consideration to be taken into account by Members in deciding whether to support the two proposals was the purpose and applicability of the powers vested in LegCo under the P&P Ordinance. He considered that such powers should be exercised by LegCo for the purpose of discharging its duty of monitoring the work of the Government, and not to investigate into activities of members of the public.

106. Miss Alice MAK indicated support for Mr Jeffrey LAM's proposal to conduct a comprehensive inquiry into the organization and sources of funding of the unlawful occupation activities, the Government's handling of the matter and other related matters. On the concern raised by some Members that the inquiry proposed by Mr LAM was not viable as its scope was broad and involved too many witnesses, Miss MAK remarked that should the proposed select committee be appointed, Members could then further discuss the focus of the inquiry and the procedure to be adopted.

107. At the invitation of the Chairman, LA explained the general legal principles applicable to Members' consideration of the constitutionality and legality of the two proposals put forward respectively by Mr WONG Yuk-man and Mr Jeffrey LAM to seek the Council's authorization to appoint select committees, as follows:

- (a) The courts had affirmed the principle that the Legislature had exclusive control over the conduct of its affairs and the courts would not intervene in the internal workings of the Legislature unless BL so required. Possible examples of intervention by the courts were where the constitutionally protected rights of an individual were involved or where the Legislature had conducted its business *ultra vires* its powers and functions provided under BL.
- (b) BL 73 set out the powers and functions of LegCo. BL 75(2) provided that the rules of procedure of LegCo should be made by the Council on its own, provided that they did not contravene BL.

Action

According to RoP 78(1), LegCo could appoint one or more select committees to consider matters or bills which the Council might refer to the committee. RoP 78(1), however, did not specify the nature of the matters which the Council might refer to a select committee. With reference to the select committees formed by LegCo in the past, while the subjects of the past inquiries related mainly to the conduct of the Government, there were cases where the conduct of members of the public either as an individual or as a collective body were unavoidably involved and covered in the scope of the inquiries concerned.

- (c) The two motions proposed respectively by the two Members both sought to seek the Council's authorization for the select committees concerned to exercise the powers under section 9(1) of the P&P Ordinance. Regarding the question raised by some Members as to whether the Council's authorization might become invalidated if the terms of reference of the proposed select committee as set out in the relevant resolution passed by the Council was too broad, it was more a question of the desirability than the legality of the proposed motions, which should be a matter left to the judgment of individual Members.
- (d) It was undisputed, as affirmed by rulings of the courts, that the common law principle of separation of powers was enshrined in BL. Members should have regard to the principle in discharging their duties for instance through the functioning of committees, and its actual application would depend on the context of each case.
- (e) There was one occasion in the past where members of the public summoned to give evidence before a select committee had made an application for judicial review against the orders of the select committee summoning them to appear before it. In its judgment, the court had affirmed the principle that the construction of the relevant resolution of LegCo should be left to LegCo itself as far as possible, save in cases where the court found it necessary to intervene.

108. In response to Mr IP Kin-yuen's enquiry, LA clarified that RoP 78(1) did not specify the nature of the matters which the Council might refer to a select committee, which was a matter for the Council to decide. LA further said that he was merely referring to the inquiries conducted by select committees formed by LegCo in the past when he said that the subjects of such inquiries related mainly to the conduct of the Government.

Action

109. Mr WONG Yuk-man reiterated his strong criticism against the Police for conniving at the mobsters' attacks on the peaceful participants of the assembly in Mong Kok on 3 October 2014 and called upon Mr TSANG Wai-hung, the Commissioner of Police, to resign.

110. Mr Jeffrey LAM appealed to Members to support his proposal.

111. The Chairman first put to vote the proposal of Mr WONG Yuk-man for the HC Chairman to move a motion in Council to seek the Council's authorization for the appointment of a select committee to inquire into issues relating to the Police's handling of the attacks against the participants of recent assemblies. Mr WONG Yuk-man requested a division.

The following Members voted in favour of the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Ms Emily LAU, Mr Frederick FUNG, Mr Ronny TONG, Ms Cyd HO, Mr CHEUNG Kwok-che, Mr Alan LEONG, Mr LEUNG Kwok-hung, Mr Albert CHAN, Mr WONG Yuk-man, Ms Claudia MO, Mr WU Chi-wai, Mr Gary FAN, Mr Charles MOK, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG and Mr IP Kin-yuen.

(23 Members)

The following Members voted against the proposal:

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

(36 Members)

112. The Chairman declared that 23 Members voted for and 36 Members voted against the proposal, and no Member abstained from voting. The Chairman declared that the proposal was not supported.

Action

113. The Chairman then put to vote the proposal of Mr Jeffrey LAM for the HC Chairman to move a motion in Council to seek the Council's authorization for the appointment of a select committee to inquire into issues relating to the occupation of roads arising from the recent assemblies. Mr WONG Kwok-hing requested a division.

The following Members voted in favour of the proposal:

Mr CHAN Kam-lam, Dr LAU Wong-fat, Mr TAM Yiu-chung, Mr Abraham SHEK, Mr Tommy CHEUNG, Mr WONG Kwok-hing, Mr Jeffrey LAM, Mr WONG Ting-kwong, Ms Starry LEE, 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 Frankie YICK, Mr YIU Si-wing, Mr MA Fung-kwok, Mr CHAN Han-pan, Miss CHAN Yuen-han, Miss Alice MAK, Mr KWOK Wai-keung, Mr Christopher CHEUNG, Dr Elizabeth QUAT, Mr Martin LIAO, Mr POON Siu-ping, Mr TANG Ka-piu, Dr CHIANG Lai-wan, Ir Dr LO Wai-kwok, Mr CHUNG Kwok-pan, Mr Christopher CHUNG and Mr Tony TSE.

(35 Members)

The following Members voted against the proposal:

Mr Albert HO, Mr LEE Cheuk-yan, Mr James TO, Ms Emily LAU, Mr Frederick FUNG, Mr Ronny TONG, Ms Cyd HO, 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 WU Chi-wai, Mr Gary FAN, Mr Charles MOK, Mr CHAN Chi-chuen, Dr Kenneth CHAN, Mr Kenneth LEUNG, Mr Dennis KWOK, Dr Fernando CHEUNG, Mr SIN Chung-kai, Dr Helena WONG and Mr IP Kin-yuen

(25 Members)

114. The Chairman declared that 35 Members voted for and 25 Members voted against the proposal, and no Member abstained from voting. The Chairman declared that the proposal was supported.

115. The Chairman informed Members that the earliest opportunity for him to move the motion in Council was the Council meeting of 29 October 2014. Members raised no question.

Action

XIII. Any other business

116. There being no other business, the meeting ended at 5:52 pm.

Council Business Division 2
Legislative Council Secretariat
16 October 2014