

立法會

Legislative Council

LC Paper No. CB(2) 2014/04-05

Ref : CB2/H/5/04

House Committee of the Legislative Council

**Minutes of the 32nd meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 17 June 2005**

Members present :

Hon Miriam LAU Kin-yee, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, S.B.St.J., JP
Dr Hon David LI Kwok-po, GBS, JP
Dr Hon LUI Ming-wah, JP
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-yee, GBS, JP
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon CHAN Yuen-han, JP
Hon CHAN Kam-lam, JP
Hon LEUNG Yiu-chung
Hon WONG Yung-kan, JP
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, SBS, JP
Dr Hon YEUNG Sum
Hon LAU Chin-shek, JP
Hon LAU Kong-wah, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon Timothy FOK Tsun-ting, GBS, JP
Hon TAM Yiu-chung, GBS, JP
Hon LI Fung-ying, BBS, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon Frederick FUNG Kin-kee, JP
Hon Audrey EU Yuet-mee, SC, JP
Hon Vincent FANG Kang, JP
Hon WONG Kwok-hing, MH

Mrs Anna LO	Principal Council Secretary (Administration)
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2
Miss Kathleen LAU	Chief Public Information Officer
Mrs Constance LI	Chief Council Secretary (2)5
Mrs Betty LEUNG	Chief Council Secretary (3)1
Miss Anita HO	Assistant Legal Adviser 2
Ms Connie FUNG	Assistant Legal Adviser 3
Miss Kitty CHENG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Miss Monna LAI	Assistant Legal Adviser 7
Miss Lolita SHEK	Senior Council Secretary (2)7

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I. Confirmation of the minutes of the 31st meeting held on 10 June 2005
(LC Paper No. CB(2) 1927/04-05)

The minutes were confirmed.

II. Matters arising

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

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

(b) Civil Aviation (Amendment) Bill 2005

(Paragraphs 3 to 5 of the minutes of the 31st House Committee meeting on 10 June 2005)

[Previous papers:

LC Paper No. LS 72/04-05 issued vide LC Paper No. CB(2) 1770/04-05 dated 2 June 2005; and

Paragraphs 5 to 7 of the minutes of the 30th House Committee meeting on 3 June 2005 (LC Paper No. CB(2) 1848/04-05) issued vide LC Paper No. CB(2) 1862/04-05 dated 8 June 2005]

3. The Chairman said that at the last meeting, Members agreed to further defer a decision on the Bill to this meeting, pending the Administration's reply whether to move a Committee Stage amendment (CSA) to address Mr Ronny TONG's concern. The Chairman further said that the Secretary for Economic Development and Labour's reply dated 16 June 2005 was tabled at the meeting.

4. Mr Ronny TONG said that the Administration initially shared his view

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on the issue raised. However, the Administration had now responded that it was not necessary to amend the Bill to address his concern. He considered the Administration's response unacceptable, and that a Bills Committee should be formed to study the Bill.

5. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join: Ms Margaret NG, Mr Alan LEONG and Mr Ronny TONG.

III. Business arising from previous Council meetings

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

**Certification for Employee Benefits (Chinese Medicine)
(Miscellaneous Amendments) Bill 2005**
(LC Paper No. LS 80/04-05)

6. The Chairman said that the Bill sought to recognise the medical examination and treatment conducted and the certification given by registered Chinese medical practitioners, for the purposes of entitlement to certain employees' benefits under three labour ordinances.

7. The Legal Adviser said that the Legal Service Division was still studying the Bill. The Legal Adviser further said that the Panel on Manpower had expressed various concerns when consulted on the Administration's proposal on 16 May 2002. The Legal Adviser added that as the Bill involved important policy changes and had implications on the operation of the main labour legislation, Members might wish to form a Bills Committee to examine the Bill in detail.

8. Dr KWOK Ka-ki and Mr Vincent FANG said that a Bills Committee should be formed to study the Bill.

9. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join: Mr James TIEN, Mr Vincent FANG, Dr Joseph LEE and Dr KWOK Ka-ki.

(b) **Legal Service Division report on subsidiary legislation gazetted on 10 June 2005 and tabled in Council on 15 June 2005**
(LC Paper No. LS 83/04-05)

10. The Chairman said that four items of subsidiary legislation were

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gazetted on 10 June 2005.

11. The Legal Adviser explained that by the Tate's Cairn Tunnel Ordinance (Replacement of Schedule) Notice 2005, the Commissioner for Transport substituted the Schedule to the Tate's Cairn Tunnel Ordinance (Cap. 393) with a new Schedule to reflect the increase of tolls (other than motorcycles and motor tricycles) payable under the Ordinance, which was agreed between the Chief Executive-in-Council and the Tate's Cairn Tunnel Company Limited.

12. The Legal Adviser further explained that the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Replacement of Schedule 1) Notice 2005 substituted Schedule 1 to the Tai Lam Tunnel and Yuen Long Approach Road Ordinance (Cap. 474) with a new Schedule to reflect the increase of tolls payable under Cap. 474. As section 45(3) of Cap. 474 expressly provided that section 34 of the Interpretation and General Clauses Ordinance (Cap. 1) should not apply in respect of such notice, the Notice was not required to be tabled in the Legislative Council (LegCo). However, it was up to the House Committee to decide whether to form a subcommittee to study the Notice.

13. Mr Andrew CHENG said that the Panel on Transport had passed a motion at its special meeting on 15 June 2005 urging the Government to withdraw these two Notices. Mr CHENG further said that a subcommittee should be formed to study the two Notices, and to follow up on the various concerns expressed by the Panel.

14. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join: Mr Albert HO, Mrs Selina CHOW, Mr Andrew CHENG, Ms Miriam LAU and Mr LEE Wing-tat.

15. The Legal Adviser said that although the United Nations Sanctions (Liberia) Regulation 2005 was not subject to scrutiny of LegCo under section 34 of the Interpretation and General Clauses Ordinance, it did come within the terms of reference of the Subcommittee to Examine the Implementation in Hong Kong of Resolutions of the United Nations Security Council in relations to Sanctions.

16. The Chairman proposed that the Regulation be referred to the Subcommittee for further study. Members agreed.

IV. Further business for the Council meeting on 22 June 2005

Questions

(LC Paper No. CB(3) 697/04-05)

17. The Chairman said that Dr YEUNG Sum had replaced his previous oral question.

V. Business for the Council meeting on 29 June 2005

(a) Questions

(LC Paper No. CB(3) 698/04-05)

18. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 29 June 2005.

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

Financial Reporting Council Bill

19. The Chairman said that the Administration would present the Bill to LegCo on 29 June 2005. The House Committee would consider the Bill at its meeting on 8 July 2005.

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

(i) Supplementary Appropriation (2004-2005) Bill

20. The Chairman said that at the last House Committee meeting, Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(ii) Companies (Amendment) Bill 2004

21. The Chairman said that the Bills Committee on the Bill had presented its report to the House Committee at the last meeting, and Members did not object to the resumption of the Second Reading debate on the Bill.

(iii) Transfer of Sentenced Persons (Amendment) (Macau) Bill

22. The Chairman said that the Bills Committee on the Bill had presented its report to the House Committee at the last meeting, and Members did not object to the resumption of the Second Reading debate on the Bill.

(iv) Aviation Security (Amendment) Bill 2005

23. The Chairman said that the Bills Committee on the Bill had presented its report to the House Committee at the last meeting, and Members did not object to the resumption of the Second Reading debate on the Bill.

(d) Government motions

(i) Proposed resolution to be moved by the Secretary for Economic Development and Labour under the Tung Chung Cable Car Ordinance

(Wording of the proposed resolution issued vide LC Paper No. CB(3) 683/04-05 dated 8 June 2005.)

(LC Paper No. LS 82/04-05)

24. The Legal Adviser explained that the motion sought LegCo's approval of the Tung Chung Cable Car Bylaw, which was the first ByLaw made by the Mass Transit Railway Corporation Limited (MTRC) under section 22 of the Tung Chung Cable Car Ordinance (Cap. 577). The purpose of the Bylaw was to provide for matters relating to the control, operation and management of the Cable Car System, and the traffic management in the Cable Car System Area.

25. The Legal Adviser said that most of the provisions of the Bylaw were modelled on the Mass Transit Railway By-Laws (Cap. 556 sub. leg. B) and the Ocean Park Bylaw (Cap. 388 sub. leg. B) on which subcommittees had been formed by the House Committee for detailed study.

26. The Legal Adviser further said that the Legal Service Division had raised some queries on the drafting aspects, and MTRC had agreed to make some technical amendments which were attached to the Legal Service Division report. The Legal Adviser added that the queries raised at the meeting of the Panel on Economic Services held on 2 June 2005 and referred to in the report had been responded to at the meeting. However, in view of the fact that the Bylaws were the first set of bylaws made under the Tung Chung Cable Car Ordinance and that they contained criminal provisions which were to be enforced by the MTRC, Members might wish to form a subcommittee to study the Bylaw.

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27. Mr LEE Wing-tat said that a subcommittee should be formed to study the Bylaw.

28. The Chairman proposed that a subcommittee be formed. Members agreed. The following Members agreed to join: Ms Miriam LAU and Mr LEE Wing-tat.

29. The Chairman said that the Administration would be requested to withdraw its notice for moving the proposed resolution.

30. Ms Emily LAU asked whether the LegCo Secretariat could cope with the additional workload, as the subcommittee would commence work immediately.

31. The Secretary General responded that as some Bills Committees had completed their scrutiny work, the LegCo Secretariat would be able to cope with the workload.

(ii) Proposed resolution to be moved by the Secretary for Health, Welfare and Food under the Pharmacy and Poisons Ordinance relating to:

- **the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2005; and**
- **the Poisons List (Amendment) (No. 2) Regulation 2005**

*(Wording of the proposed resolution issued vide LC Paper No. CB(3) 684/04-05 dated 9 June 2005.)
(LC Paper No. LS 81/04-05)*

32. The Legal Adviser explained that the motion sought LegCo's approval of the Pharmacy and Poisons (Amendment) (No. 2) Regulation 2005 and the Poisons List (Amendment) (No. 2) Regulation 2005, which added four new drugs/medicines to part A of the First and Third Schedules to the Pharmacy and Poisons Regulations and part A of Part I of the Poisons List.

33. Members did not raise objection to the Secretary for Health, Welfare and Food moving the proposed resolution at the Council meeting on 29 June 2005.

(e) **Member's Bills - resumption of debate on Second Reading, Committee Stage and Third Reading**

The Methodist Church, Hong Kong, Incorporation (Amendment) Bill 2005

34. The Chairman said that at the House Committee meeting on 3 June 2005, Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(f) **Members' motions**

(i) **Motion to be moved by Hon CHAN Kam-lam**

35. The Chairman said that the subject of the motion to be moved by Mr CHAN Kam-lam was "Enhancing the regulation of commercial marketing practices", and the wording of the motion had been issued to Members.

(ii) **Motion to be moved by Hon Albert Jinghan CHENG**

36. The Chairman said that the subject of the motion to be moved by Mr Albert CHENG was "Immediate resumption of sale of Home Ownership Scheme flats", and the wording of the motion had been issued to Members.

37. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 22 June 2005.

VI. Reports of Bills Committees and subcommittees

(a) **Report of the Bills Committee on Undesirable Medical Advertisements (Amendment) (No. 2) Bill 2004**

(LC Paper No. CB(2) 1931/04-05)

38. Mrs Selina CHOW, Chairman of the Bills Committee, said that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 29 June 2005.

39. The Chairman said that the deadline for giving notice of CSAs, if any, was Monday, 20 June 2005.

(b) **Report of the Bills Committee on Statute Law (Miscellaneous Provisions) Bill 2005**

(LC Paper No. CB(2) 1932/04-05)

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40. Ms Margaret NG, Chairman of the Bills Committee, said that the Bills Committee supported the CSAs to be moved by the Administration.

41. Referring Members to paragraph 16 of the report of the Bills Committee, Ms NG said that she had expressed reservations about the transfer of the chairmanship of the Criminal Procedure Rules Committee from the Chief Justice to the Chief Judge of the High Court, as the Committee also made rules on matters beyond the High Court. However, she would not propose CSAs to the Bill. It would also not be necessary to arrange for separate voting on the relevant clauses at the Council meeting, unless so requested by other Members.

42. The Chairman said that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 29 June 2005. The Chairman added that the deadline for giving notice of CSAs, if any, was Monday, 20 June 2005.

(c) **Report of the Bills Committee on Banking (Amendment) Bill 2005**
(*LC Paper No. CB(1) 1780/04-05*)

43. Mr Jeffrey LAM, Chairman of the Bills Committee, said that the Administration would move CSAs to provide for the establishment of a tribunal to review certain decisions of the Monetary Authority made under the Capital Rules.

44. Mr LAM further said that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 6 July 2005, and the CSAs to be moved by the Administration.

45. The Chairman said that the deadline for giving notice of CSAs was Saturday, 25 June 2005.

(d) **Report of the Bills Committee on Child Care Services (Amendment) Bill 2005**
(*LC Paper No. CB(2) 1934/04-05*)

46. Dr YEUNG Sum, Chairman of the Bills Committee, said that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 29 June 2005, and the CSAs to be moved by the Administration.

47. Referring to page 10 of the report, Dr YEUNG further said that at the request of the Bills Committee, the Administration had agreed to make an undertaking regarding the application of the “no worse-off” principle in its financial proposal on the enhanced Kindergarten Fee Remission Scheme to be submitted to the Finance Committee. The Administration would also explore

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possible measures to support the low income families affected by the change of the financial assistance scheme.

48. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Monday, 20 June 2005.

(e) Report of the Bills Committee on Bankruptcy (Amendment) Bill 2004

(LC Paper No. CB(1) 1782/04-05)

49. Referring Members to the report, the Chairman said that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 6 July 2005.

50. The Chairman reminded Members that the deadline for giving notice of CSAs, if any, was Saturday, 25 June 2005.

(f) Report of the Bills Committee on Revenue (Abolition of Estate Duty) Bill 2005

51. The Chairman, in her capacity as the Chairman of the Bills Committee, reported that the Bills Committee had discussed in detail the principles of the Bill and the policy issues involved, and had also examined the Bill clause by clause. To address the various concerns raised by the Bills Committee, including the procedures for probate application after the abolition of estate duty and the commencement date of the Bill, the Administration had agreed to move CSAs to the Bill.

52. The Chairman further said that as members of the Bills Committee had divergent views on the resumption of the Second Reading debate on the Bill on 6 July 2005, a vote was taken. The outcome was that seven members supported the resumption date, and two members objected to the date.

53. The Chairman added that two more meetings of the Bills Committee would be held on 20 and 22 June 2005 to examine the CSAs to be moved by the Administration. A written report would be provided for the House Committee meeting on 24 June 2005.

54. Ms Margaret NG called upon Members to object to the Administration's proposal to resume the Second Reading debate on the Bill on 6 July 2005. Ms NG stressed that as a matter of principle, Members should be allowed sufficient time to scrutinise bills introduced into LegCo, and to consult the relevant parties on the changes proposed in a bill. Ms NG informed Members that the Administration would move a lot of amendments to the Bill,

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but the draft CSAs were still awaited. As the Bills Committee would not be able to examine the draft CSAs until its next meeting on 20 June 2005, she did not consider it appropriate for Members to support the resumption of the Second Reading debate on the Bill at this stage. Ms NG pointed out that the Administration could seek the President's approval for the required notice for resumption of Second Reading debate to be waived, after the Bills Committee had completed its scrutiny of the Bill and all the proposed CSAs.

55. Ms NG said that the Bill sought to make fundamental changes to the existing probate application procedures which had been in use for over a century, but the public had not been consulted on the proposed changes. The Bills Committee was only allowed a few weeks to scrutinise the Bill, and the Administration intended that the changes would come into operation on 1 October 2005.

56. Ms NG further said that according to the Administration, the object of the Bill was not to benefit certain tax payers, but to improve the environment for investment in Hong Kong. Given that there was no urgency in enacting the Bill, she reiterated that Members should not support the resumption of the Second Reading debate on the Bill on 6 July 2005, as the scrutiny of bills should be allowed its due process.

57. Mr Ronny TONG, Mr LEUNG Kwok-hung, Mr LEE Wing-tat, Mr Albert HO, Ms Audrey EU and Mr Albert CHENG agreed with Ms Margaret NG that that there was no urgency to enact the Bill before the summer recess, and that the scrutiny of bills should be allowed its due process, including consulting the relevant parties on the legislative proposals.

58. Mr Ronny TONG, Mr LEUNG Kwok-hung and Ms Audrey EU added that the Bill raised important issues, such as the rights and interests of the deceased persons' families and dependents, which should be studied in detail following the normal procedure for scrutinising bills.

59. Referring to the report made by the Chairman of the Bills Committee, Mr Ronny TONG said that he did not agree that the Bills Committee had discussed the Bill in detail. Mr TONG pointed out that the Bills Committee had held nine meetings within only two weeks. Some important issues were still unresolved, as there was insufficient time for the Administration to respond to members' queries and concerns, and for members to study and discuss the Administration's response in detail. Mr TONG further said that such an approach was not the proper way for Members to discharge their responsibility of scrutinising bills and passing laws. He considered the approach contemptuous of the legislative process.

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60. Mr LEUNG Kwok-hung said that he objected to the abolition of estate duty. Mr LEUNG further said that the Administration should not regard LegCo as a rubber stamp and rush Members into concluding the scrutiny of the Bill. Members should uphold the dignity of LegCo by adhering to the normal procedure for the scrutiny of bills; otherwise it would become more difficult for Members to discharge their duty of monitoring the work of the Government. Mr LEUNG added that enacting the Bill at a later date would not adversely affect the business environment of Hong Kong.

61. Mr LEE Wing-tat said that if the Administration really respected LegCo and wished to improve its relationship with LegCo, it should allow sufficient time for Members to scrutinise bills. It was difficult for Members to hold useful discussions with the Administration, if its papers were tabled at meetings and not provided in advance. Mr LEE stressed that the Second Reading debate on the Bill should be resumed only after the Bills Committee had completed its scrutiny work. He added that he did not see any reason why the Bill could not be enacted after 6 July 2005.

62. Mr Albert HO said that the Bills Committee had worked very hard to scrutinise the Bill, and to hold discussions with the Administration and legal professions in the past two weeks. Mr HO further said that the Administration was not aware that the changes proposed in the Bill would affect the preparation of the schedule of property, until the concern was raised by the Law Society of Hong Kong. Although the Administration had agreed to move CSAs to address the concern, the CSAs had to be drafted and examined very carefully, to ensure that the changes would not cause confusion to the relevant professions and the public. He could not support the resumption of Second Reading debate on the Bill on 6 July 2005, without having thoroughly examined the draft CSAs proposed by the Administration.

63. Ms Audrey EU stressed that Members were not unwilling to hold frequent meetings to expedite the scrutiny of bills. However, sufficient time must be allowed for Members to study the Bill, and to consult the relevant parties on the proposed changes. The LegCo Secretariat, including the legal adviser, should also be given sufficient time to study the papers and advise Members on the various issues and concerns raised. Ms EU said that while the Administration had consulted the public whether estate duty should be abolished and introduced a Bill to abolish the tax, it did not realise that the Bill would, at the same time, bring about fundamental changes to the long-established probate system. Ms EU further said that it would be irresponsible of Members if they failed to study the Bill thoroughly, and that Members should not depart from the normal procedure for scrutinising of bills without good reasons.

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64. The Chairman said that as the Chairman of the Bills Committee, she had put forward for the Bills Committee's consideration the meeting schedule of the Bills Committee, and the Administration's proposal to resume the Second Reading debate on the Bill on 6 July 2005.

65. Ms Margaret NG said that although the majority of the members present at the meeting of the Bills Committee on 16 June 2005 had voted to support the resumption of the Second Reading debate on the Bill on 6 July 2005, it did not mean that this was a right decision, or that the Bill was ready for resumption of Second Reading debate. Ms NG further said that some members who supported the abolition of estate duty might not be fully aware of the changes proposed in the Bill to the existing probate application procedures. Ms NG added that the public should be consulted on certain unusual transitional arrangements proposed by the Administration, such as setting a nominal estate duty of \$100 for the period after the enactment of the legislation in July 2005 and before its coming into operation on 1 October 2005. Ms NG proposed that the House Committee should take a vote on whether to support the resumption of the Second Reading debate on the Bill on 6 July 2005.

66. Mr CHAN Kam-lam said that there was consensus in the community that estate duty should be abolished, and the financial sector also supported the Bill which could enhance Hong Kong's status as an international finance centre. However, the Bill could only be introduced into LegCo after the Financial Secretary had announced the Government's proposal to abolish estate duty in his Budget Speech. Although the Bills Committee did not have much time to scrutinise the Bill, the Administration had addressed the various concerns raised by Members and the relevant sectors. Mr CHAN considered that the Bills Committee should make its best efforts to complete scrutiny of the Bill to enable the Second Reading debate on the Bill to resume at the last Council meeting of the current session. He hoped that Members would respect the majority view of the Bills Committee on the resumption date.

67. Mr Albert CHENG said that he was not a member of the Bills Committee. While he supported the abolition of estate duty, he did not agree to Mr CHAN Kam-lam's remarks. Mr CHENG considered that the scrutiny of bills should be allowed its due process, in order to ensure that bills passed by LegCo would not contain any loopholes or pose any problems. Mr CHENG added that Members should not be rushed into concluding the scrutiny of the Bill.

68. Mrs Selina CHOW said that she was not a member of the Bills Committee. However, she was given to understand that the Administration had already addressed many of the concerns raised by members of the Bills

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Committee. Members belonging to the Liberal Party (LP) supported the Bill, and hoped Members would respect the majority view of the Bills Committee regarding the date of resumption of the Second Reading debate on the Bill. Mrs CHOW further said that there were previous cases in which scrutiny of certain bills was expedited to enable the Second Reading debates to be resumed before the end of a session. Mrs CHOW added that Members who were not satisfied with the Bill could vote against the Bill at the Council meeting on 6 July 2005.

69. Mr Ronny TONG reiterated that it was important for LegCo to adhere to the normal procedure for scrutinising bills, and that Members should be allowed sufficient time to study bills and their implications. Mr TONG said that in the case of this Bill, Members had not been allowed reasonable time to consider the Administration's proposed CSAs and prepare their own CSAs.

70. The Chairman said that the Bills Committee had already received the first batch of CSAs proposed by the Administration and members. The Administration would provide the other CSAs that afternoon. The Chairman added that if the Second Reading debate on the Bill was to be resumed on 6 July 2005, the deadline for giving notice of CSAs was 25 June 2005.

71. Ms Margaret NG said that the CSAs so far considered by the Bills Committee were technical in nature, and the Administration had not yet provided the substantive CSAs. Ms NG added that the Bills Committee should also allow time for the Law Society of Hong Kong, in particular its Probate Committee, and Hong Kong Bar Association to study and comment on the CSAs proposed by the Administration.

72. Mr James TIEN said that Members belonging to LP were not too concerned about the CSAs, as they did not agree that the Administration should continue to perform certain functions relating to probate application after the abolition of estate duty. Mr TIEN added that Members belonging to LP would explain their views in detail during the resumption of the Second Reading debate on the Bill.

73. The Chairman put the question that the House Committee supported the resumption of the Second Reading debate on the Bill on 6 July 2005 to vote. The outcome was that 17 Members voted in favour of the question, 20 Members voted against the question, and one Member abstained from voting.

74. The Chairman said that she would inform the Administration of the House Committee's decision.

(g) **Report of the Subcommittee to Study Four Items of Subsidiary Legislation under the Road Traffic Ordinance**

(LC Paper No. CB(1) 1781/04-05)

75. The Chairman, in her capacity as the Chairman of the Subcommittee, said that the Subcommittee had provided a report for Members' reference.

(h) **Report of the Subcommittee on Mutual Legal Assistance in Criminal Matters (Belgium) Order and Mutual Legal Assistance in Criminal Matters (Denmark) Order**

76. On behalf of Mr James TO Kun-sun, Chairman of the Subcommittee, Ms Margaret NG said that the Subcommittee supported the two Orders.

VII. Position on Bills Committees/subcommittees

(LC Paper No. CB(2) 1928/04-05)

77. The Chairman said that there were 12 Bills Committees, including the two Bills Committees formed under agenda items II(b) and III(a) above, and nine subcommittees, including the two subcommittees formed under agenda items III(b) and V(d)(i) above, in action.

78. The Chairman added that as there were vacant slots, the Bills Committee on Civil Aviation (Amendment) Bill 2005 and the Bills Committee on Certification for Employee Benefits (Chinese Medicine) (Miscellaneous Amendments) Bill 2005 formed under agenda items II(b) and III(a) respectively could commence work.

VIII. Paper of the Committee on Rules of Procedure (CRoP)

Handbook for Chairmen of Panels

(LC Paper No. CROP 52/04-05)

79. Mr Jasper TSANG, Chairman of CRoP, said that Members had earlier been consulted on the Handbook for Chairmen of Panels, and their comments had been incorporated. The LegCo Secretariat would proceed to prepare the Handbooks for Chairmen of Bills Committees and subcommittees on subsidiary legislation. Mr TSANG invited Members to endorse the Handbook for Chairmen of Panels.

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80. Ms Margaret NG and Ms Emily LAU supported the preparation of the Handbook which provided reference to the relevant rules and practices as well as useful guidelines for Chairmen of Panels. They hoped that Chairmen of Panels would make reference to the Handbook in chairing meetings.

81. Members endorsed the Handbook for Chairmen of Panels.

IX. Report of the Subcommittee to Consider a Mechanism for Handling Complaints and Allegations Concerning Members' Operating Expenses Reimbursement Claims

(LC Paper No. AS 335/04-05)

82. Ms Emily LAU, Chairman of the Subcommittee, said that the paper sought Members' advice on the following recommendations of the Subcommittee -

- (a) a mechanism for handling complaints and allegations concerning Members' Operating Expenses Reimbursement (OER) claims should be established;
- (b) the scope of the mechanism should be confined to Members' OER claims;
- (c) the existing terms of reference of the Committee on Members' Interests (CMI) provided in Rule 73 of the Rules of Procedure (RoP) should be expanded so that it could also handle complaints and allegations concerning Members' OER claims.

83. The Chairman said that the House Committee would decide on the first two recommendations at the meeting, while the third recommendation should first be considered by CMI, which would meet on 27 June 2005. Members agreed.

84. Ms Margaret NG said that she faced a dilemma in deciding whether to support the establishment of a mechanism for handling complaints and allegations against Members. As an autonomous body, LegCo should have the right to regulate its own internal affairs and to set up its own disciplinary body. However, if the mechanism for handling complaints and allegations was not an impartial third party, there could be the risk that the mechanism might be abused. Ms NG considered that the scope of an investigation should be confined to matters strictly relevant to the complaint/allegation.

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85. Mr LEUNG Kwok-hung said that he had reservations about LegCo Members conducting investigations by themselves, as outcomes of such investigation would lack credibility. Mr LEUNG preferred that the investigations be conducted by law enforcement agencies, as such investigations would be more transparent and also subject to public monitoring. Mr LEUNG agreed with Ms Margaret NG that the complaints mechanism could be abused, and that if such a mechanism was to be set up, the scope of an investigation should be confined to matters strictly relevant to the complaint/allegation. He added that there should be detailed procedures for handling complaints/allegations and conducting investigations.

86. Dr YEUNG Sum expressed concern that the mechanism might be made use of to attack political adversaries, especially at times of elections.

87. Ms Emily LAU said that in the United Kingdom (UK), sovereignty of the Parliament was considered to be of paramount importance, and complaints against Members of the Parliament were investigated by fellow Members and not by a third party.

88. Ms Margaret NG said that in UK, such an investigatory mechanism was above party politics, and it might not be possible for Hong Kong to adopt similar practice. Mr LEUNG Kwok-hung concurred with Ms NG.

89. The Chairman put the first recommendation of the Subcommittee, i.e. that a mechanism for handling complaints and allegations concerning Members' Operating Expenses Reimbursement (OER) claims should be established, to vote. The result was that 23 Members voted for the recommendation, one Member voted against the recommendation, and three Members abstained from voting.

90. The Chairman put the second recommendation of the Subcommittee, i.e. the scope of the mechanism should be confined to Members' OER claims, to vote. The result was that 23 Members voted for the recommendation, one Member voted against the recommendation, and three Members abstained from voting.

X. Proposal to invite the Chief Executive-elect to attend a Chief Executive's Question and Answer Session following his appointment as the Chief Executive by the Central People's Government

(Letter dated 14 June 2005 from Hon Emily LAU Wai-hing to the Chairman of the House Committee (LC Paper No. CB(2) 1945/04-05(01))

91. Ms Emily LAU said that on 16 June 2005, Mr Donald TSANG was declared elected in the Chief Executive election, and he would soon be

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appointed as the Chief Executive by the Central People's Government (CPG). Ms LAU suggested that the House Committee should invite Mr TSANG to attend a Question and Answer Session before the summer recess to answer Members' questions on the relationship between the Executive and the Legislature, and other issues of public concern.

92. Dr YEUNG Sum supported Ms LAU's suggestion that the Question and Answer Session should be held before the summer recess. Dr YEUNG added that the Chief Executive should also answer questions on his philosophy of governance.

93. The Chairman said that she would write to invite Mr Donald TSANG, the Chief Executive-elect, to attend a Question and Answer Session as soon as CPG appointed him as the Chief Executive, and before the last Council meeting on 6 July 2005.

XI. Any other business

94. There being no other business, the meeting ended at 3:56 pm.

Council Business Division 2
Legislative Council Secretariat
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