President's ruling on Committee stage amendments proposed by Hon WONG Yuk-man to the Special Holiday (3 September 2015) Bill

Hon WONG Yuk-man has given notice to move a total of 89 sets of Committee stage amendments ("CSAs") to the Special Holiday (3 September 2015) Bill ("the Bill"), if the motion on the Second Reading of the Bill is passed at the Legislative Council ("LegCo") meeting of 8 July 2015. In considering the admissibility of the CSAs proposed by Mr WONG under the Rules of Procedure, I invited the Administration to comment on the CSAs and the Member to respond to the Administration's comments.

The Bill

2. According to its long title, the object of the Bill is to make 3 September 2015 both an additional general holiday and an additional statutory holiday in 2015 for the purposes of the General Holidays Ordinance (Cap. 149) and the Employment Ordinance (Cap. 57) respectively. The Explanatory Memorandum of the Bill states that 3 September 2015 is the 70th anniversary day of the victory of the Chinese people's war of resistance against Japanese aggression. According to the LegCo Brief on the Bill, the Central People's Government has designated 3 September 2015 as a National Holiday and will organise a range of large-scale commemorative activities. The Hong Kong Special Administrative Region Government will also host various commemorative activities. To facilitate community participation in these activities, the Administration proposes to designate 3 September 2015 on a one-off basis as both a general holiday and a statutory holiday by the Bill.

Hon WONG Yuk-man's proposed CSAs

3. Hon WONG Yuk-man proposes a total of 89 sets of CSAs to the Bill, each of which seeks to designate a different date in 2015 or 2016 to substitute 3 September 2015 as both a general holiday and a statutory holiday to commemorate a particular event or celebrate a festive day relating to Hong Kong, China or the international community. The dates proposed to be designated as a special holiday in the CSAs relate largely to the following:

(a) the birth or death of certain political or social figures;

(b) the establishment of certain institutions or facilities;

(c) the occurrence of certain events including disasters, battles, uprisings, social or political incidents, and the signing of treaties; and

(d) festivals.

The Administration's views

4. The Administration submits that all of the 89 sets of Hon WONG Yuk-man's proposed CSAs are outside the scope of the Bill. The Administration argues that the sole purpose of the Bill is to designate 3 September 2015 being the 70th anniversary day of the victory of the Chinese people's war of resistance against Japanese aggression on a one-off basis as both a general holiday and a statutory holiday, which is reflected in the long title, the provisions and the Explanatory Memorandum of the Bill. Any purported designation of a day other than 3 September 2015 is irrelevant to the subject matter of the Bill.

5. The Administration further submits that certain sets of the proposed CSAs are duplicate, unintelligible or wrong. It points out eight duplicate sets of CSAs which propose to replace 3 September 2015 by the same alternative date as a special holiday to commemorate different events. The Administration also notes that three sets of the CSAs have typographical errors in their English version. Another three sets are meaningless because the dates proposed to be designated as a special holiday are general holidays under Cap. 149 and statutory holidays under Cap. 57.

6. It is also the Administration's view that the proposed CSAs are sequential and, when taken together, are meaningless in the context of the proposed designation of 3 September 2015 as a general holiday and a statutory holiday to commemorate the 70th anniversary day of the victory of the Chinese people's war of resistance against Japanese aggression.

Hon WONG Yuk-man's response

7. Hon WONG Yuk-man does not agree with the Administration's views. He contends that the Bill makes no mention of 3 September 2015 as

the 70th anniversary day of the victory of the Chinese people's war of resistance against Japanese aggression. Although such mention is found in the Explanatory Memorandum of the Bill and the LegCo Brief, they are not part of the Bill and have no legislative effect. In Mr WONG's view, the subject matter of the Bill is to add a day as both a general holiday and a statutory holiday, and all of his proposed CSAs are relevant to the subject matter of the Bill.

8. Hon WONG Yuk-man also contends that the designation of the same alternative date as a special holiday in some of his proposed CSAs is to highlight the different purposes for the designation, and this should not affect the validity of the proposed CSAs. While acknowledging typographical errors in some of his proposed CSAs, Mr WONG asks for my leave to make corrections.

9. Hon WONG Yuk-man further argues that the alternative dates as proposed in his CSAs are more meaningful and worthy of commemoration than 3 September 2015. He does not agree with the Administration's views that his proposed CSAs are meaningless.

My opinion

10. Under Rule 57(4)(a) of the Rules of Procedure, an amendment to a bill must be relevant to the subject matter of the bill and to the subject matter of the clause to which it relates. When considering the subject matter of a bill, I have all along taken into account the long title, the Explanatory Memorandum and the provisions of the bill, the LegCo Brief on the bill and other relevant factors. In determining whether a CSA is relevant to the subject matter of a bill, I also consider whether the CSA would have the effect of altering the subject matter of the bill or merely amending its details.

11. Clearly, the long title and the provisions of the Bill specify 3 September 2015 as the only day proposed to be designated as an additional general holiday and an additional statutory holiday. Although no reference is made in the Bill to the 70th anniversary day of the victory of the Chinese people's war of resistance against Japanese aggression, the policy intent for the appointment of 3 September 2015 as a special holiday is set out in its Explanatory Memorandum and the LegCo Brief. It is evident that the Bill concerns solely the appointment of a specific date, i.e. 3 September 2015, as a special holiday for a specific event.

12. Each of the 89 sets of CSAs proposed by Hon WONG Yuk-man seeks to designate another date to replace 3 September 2015 as an additional general holiday and an additional statutory holiday in commemoration of a particular event not being the 70th anniversary day of the victory of the Chinese people's war of resistance against Japanese aggression. Obviously these CSAs are outside the scope of the Bill, and any one of them, if passed, would have the effect of altering the subject matter of the Bill. In my opinion, all these CSAs are not relevant to the subject matter of the Bill. I could not allow them to be moved.

13. I note that each of the 89 sets of CSAs also seeks to amend the long title of the Bill to substitute 3 September 2015 with another date. Under Rule 50(3) of the Rules of Procedure, the long title of a bill is to set out the purposes of a bill in general terms. It is not subject to amendment at Committee stage of the bill unless an amendment made to the provisions in the bill makes it necessary to do so or for some other technical reasons such as to improve the language or to clarify a certain point which is within the scope of the bill. Proposed amendments to the long title to enlarge the scope of a bill should not be admissible under the Rules of Procedure.

14. As I have formed the opinion that Hon WONG Yuk-man's proposed CSAs are not relevant to the subject matter of the Bill, I shall not deal with the other points raised by the Administration.

My ruling

15. I rule that all the CSAs proposed by Hon WONG Yuk-man are not admissible under Rule 57(4)(a) of the Rules of Procedure.

(Jasper TSANG Yok-sing)
President
Legislative Council

6 July 2015