

立法會
Legislative Council

LC Paper No. CB(2) 2301/99-00

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 27th meeting
held in the Legislative Council Chamber
at 5:08 pm on Friday, 9 June 2000**

Members present :

Dr Hon LEONG Che-hung, JP (Chairman)
Dr Hon YEUNG Sum (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, JP
Hon HO Sai-chu, SBS, JP
Hon Cyd HO Sau-lan
Hon Edward HO Sing-tin, SBS, JP
Hon Albert HO Chun-yan
Hon Michael HO Mun-ka
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Wing-tat
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Hon LEE Kai-ming, SBS, JP
Hon Fred LI Wah-ming, JP
Hon NG Leung-sing
Prof Hon NG Ching-fai
Hon Margaret NG
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Ronald ARCULLI, JP
Hon MA Fung-kwok
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon CHAN Kwok-keung
Hon CHAN Yuen-han
Hon CHAN Wing-chan
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, JP

Mr Ray CHAN	Assistant Secretary General 3
Miss Anita HO	Assistant Legal Adviser 2
Mr Stephen LAM	Assistant Legal Adviser 4
Mr Arthur CHEUNG	Assistant Legal Adviser 5
Mr KAU Kin-wah	Assistant Legal Adviser 6
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mr Andy LAU	Chief Assistant Secretary (1)2
Ms LEUNG Siu-kum	Chief Assistant Secretary (1)4
Miss Salumi CHAN	Chief Assistant Secretary (1)5
Mr LAW Wing-lok	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Mrs Mary TANG	Chief Assistant Secretary (1)6 (Acting)
Miss Mary SO	Senior Assistant Secretary (2)8

Action

I. Confirmation of the minutes of the 26th meeting held on 2 June 2000
(*LC Paper No. CB(2)2213/99-00*)

The minutes were confirmed.

II. Matters arising

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

2. Mr James TIEN said that he had heard that the taking of the Oath by Members of the second term Legislative Council (LegCo) and the delivery of the Policy Address 2000 by the Chief Executive (CE) would take place on 4 October 2000 and 11 October 2000 respectively. Mr TIEN asked the Chairman to ascertain from CS whether what he had heard was accurate.

3. The Chairman said that he was not aware of such an arrangement. He added that he would raise the matter at his meeting with CS next week.

III. Business arising from previous Council meetings

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

Supplementary Appropriation (1999-2000) Bill 2000
(*LC Paper No. LS 147/99-00*)

Action

4. The Chairman said that the purpose of the Bill was to seek final legislative authority for the supplementary provisions already approved by the Finance Committee or under delegated powers in the financial year which ended on 31 March 2000. He added that the Legal Service Division was of the view that the Bill was legally in order.

5. Members did not raise objection to the resumption of the Second Reading debate on the Bill.

(b) Legal Service Division's report on subsidiary legislation tabled in Council on 7 June 2000 (gazetted on 2 June 1999)
(LC Paper No. LS 152/99-00)

6. Members did not raise any query on the four items of subsidiary legislation gazetted on 2 June 2000.

7. The Chairman reminded members that the deadline for amending the subsidiary legislation was the second meeting of the Council in the next session.

IV. Further report by the Legal Service Division on outstanding bills

Adaptation of Laws (No. 3) Bill 1999
(LC Paper No. LS 153/99-00)

8. The Legal Adviser said that the Bill dealt with the adaptation of five ordinances relating to housing matters. He added that members had agreed at the House Committee meeting on 26 February 2000 to defer consideration of the Bill until certain issues common to other adaptation of laws bills had been resolved by the Bills Committees concerned.

9. The Legal Adviser further said that in the light of the resolution of these issues by the Bills Committees concerned and the agreement to postpone further consideration of the issue relating to the proper adaptation of "servant or agent of the Crown" in non-immunity provisions relating to certain statutory bodies which was studied by the Bills Committee on the Adaptation of Laws (No. 16) Bill 1999, the Administration had now proposed Committee Stage amendments (CSAs) to the Bill in similar terms. He added that the Bills Committee on the Adaptation of Laws (No. 16) Bill 1999 would report under agenda item IX(b) below.

10. Members did not raise objection to the resumption of the Second Reading debate on the Bill.

Action

V. Further business for the Council meeting on 14 June 2000

(a) Questions

(LC Paper No. CB(3) 985/99-00)

11. The Chairman said that 20 questions (six oral and 14 written) had been scheduled.

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

Smoking (Public Health) (Amendment) Bill 2000

12. The Chairman said that the above Bill would be introduced into the Council on 14 June 2000 and considered by the House Committee on 16 June 2000.

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

Arbitration (Amendment) Bill 2000

13. The Chairman said that members agreed at the meeting on 2 June 2000 that the Second Reading debate on the above Bill be resumed.

14. The Chairman added that members agreed at previous meetings that the Second Reading debates on three other Bills, viz. the Buildings (Amendment) Bill 2000, Entertainment Special Effects Bill and Family Status Discrimination (Amendment) Bill 2000, would be resumed on 14 June 2000.

(d) Members' motions

Resolution under section 40 of the Pneumoconiosis (Compensation) Ordinance (Cap. 360) - to be moved by Hon LEE Cheuk-yan

15. Mr LEE Cheuk-yan said that his resolution sought to increase the compensation for bereavement in Part V of First Schedule to the Pneumoconiosis (Compensation) Ordinance from \$100,000 to \$150,000. Mr LEE added that the reasons for the proposed increase were set out in the information paper tabled at the meeting.

16. The Legal Adviser said that the Legal Service Division would issue a report on Mr LEE's proposed resolution on 12 June 2000.

17. Assistant Secretary General 3 said that the House Committee might wish to consider making a recommendation to the President on the deadline for giving notice of amendments to the proposed resolution, given that the requisite

Action

notice of five clear days under Rule 29(6)(a) of the Rules of Procedure had already expired.

18. The Chairman suggested that a recommendation be made to the President that notice of amendments, if any, to Mr LEE's proposed resolution should be given not later than 5:00 pm on Monday, 12 June 2000. Members agreed.

VI. Business for the Council meeting on 21 June 2000

(a) Questions

(LC Paper No. CB(3) 986/99-00)

19. The Chairman said that 20 questions (six oral and 14 written) had been tentatively scheduled.

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

20. Members noted that no notice had been received.

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

(i) Legal Practitioners (Amendment) Bill 1999

(ii) Evidence (Amendment) Bill 1999

(iii) Human Reproductive Technology Bill

21. The Chairman said that the Bills Committees concerned would report under agenda items IX (c), (g) and (j) below.

(d) Government motions

(i) Resolution under section 7A of the Hong Kong Court of Final Appeal Ordinance (Cap. 484) - to be moved by the Chief Secretary for Administration

(LC Paper No. LS 154/99-00)

22. The Chairman said that the proposed resolution sought the Council's endorsement for the appointment of permanent judges, non-permanent judges and judges from other common law jurisdictions under sections 7, 8 and 9 of the Hong Kong Court of Final Appeal Ordinance respectively. He further said that the Administration had originally given notice to move the resolution at the Council meeting on 31 May 2000. It had subsequently withdrawn the

Action

notice to facilitate the Panel on Administration of Justice and Legal Services to receive a briefing on the procedures for the appointment of judges of the Hong Kong Court of Final Appeal (CFA) at a special Panel meeting on 3 June 2000. He added that the Panel would report under agenda item X(a) below.

23. The Legal Adviser drew members' attention to paragraph 4 of the paper and said that the English version of the curricula vitae of the CFA judges had just been issued to Members.

- (ii) **Resolution under section 54A of the Interpretation and General Clauses Ordinance (Cap. 1) - to be moved by the Secretary for Trade and Industry**
(LC Paper No. LS 149/99-00)

24. The Chairman said that the proposed resolution sought the Council's approval for certain functions currently exercised by the Secretary for Trade and Industry and the Director-General of Industry to be transferred to the Secretary for Economic Services and the Commissioner for Innovation and Technology respectively. He added that the Legal Service Division was of the view that the legal and drafting aspects of the proposed resolution were in order.

25. Members did not raise any query on the proposed resolution.

- (iii) **Resolution under section 12 of the Fixed Penalty (Criminal Proceedings) Ordinance (Cap. 240) - to be moved by the Secretary for Transport**
(LC Paper No. LS 151/99-00)

26. The Legal Adviser introduced the paper and explained that the proposed resolution sought to make certain offences relating to the seat belt legislation punishable by fixed penalties in consequence of the amendments made to the Road Traffic (Safety Equipment) Regulations by the Road Traffic (Safety Equipment) (Amendment) Regulation 2000. He drew members' attention to paragraphs 3 and 4 of the paper which detailed the new offences and the penalty for such offences.

27. The Legal Adviser added that the Subcommittee formed to study the Road Traffic (Safety Equipment) (Amendment) Regulation 2000 and Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2000 had just completed work and its Chairman would make a verbal report under agenda item IX below.

Action

- (iv) **Resolution under section 7 of the Factories and Industrial Undertakings Ordinance (Cap. 59) - to be moved by the Secretary for Education and Manpower**
(LC Paper No. LS 145/99-00)

28. The Chairman said that the proposed resolution sought to amend section 15(1)(b) of the Factories and Industrial Undertakings (Asbestos) Regulation by repealing "Industry Department" and substituting "Commissioner for Innovation and Technology on behalf of the Government". He added that the legal and drafting aspects of the proposed resolution were in order.

29. Members did not raise any query on the proposed resolution.

- (v) **Resolution under section 46 of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) and section 35 of the Interpretation and General Clauses Ordinance (Cap. 1) - to be moved by the Secretary for Financial Services**
- (vi) **Resolution under section 48 of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) and section 35 of the Interpretation and General Clauses Ordinance (Cap. 1) - to be moved by the Secretary for Financial Services**
- (vii) **Resolution under section 47 of the Mandatory Provident Fund Schemes Ordinance (Cap. 485) - to be moved by the Secretary for Financial Services**

30. The Chairman said that the Subcommittee on subsidiary legislation relating to Mandatory Provident Fund Schemes had submitted a report to the House Committee on 2 June 2000 recommending that the above three items of subsidiary legislation be supported.

(e) Members' motions

- (i) **Resolution under Article 75 of the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China - to be moved by Hon Mrs Selina CHOW LIANG Shuk-ye**

31. The Chairman said that the proposed resolution sought to amend Rules 23, 25, 30, 31, 35, 51, 61 and 66 of the Rules of Procedure.

32. The Chairman further said that at the meeting on 28 April 2000, members agreed to the Chairman of the Committee on Rules of Procedure moving a motion at a Council meeting within the current session to amend

Action

Rules 23, 25 and 31 to provide for the application of the rule of anticipation to Council business. He added that the Committee would report under agenda item XI(a) below regarding the amendments to Rules 30, 35, 51, 61 and 66.

(ii) Motion on " Reducing plastic waste "

33. Members noted the wording of the above motion which would be moved by Mr TAM Yiu-chung.

(iii) Motion on "Assisting the financial services sector in seeking business opportunities in the Mainland market"

34. Members noted the wording of the above motion which would be moved by Mr FUNG Chi-kin.

35. The Chairman reminded members that the deadline for giving notice of amendments (if any) to the motions was 14 June 2000. The speaking time limits stipulated in rule 17(c) of the House Rules would apply.

VII. Chief Executive's Question and Answer Session on 23 June 2000

36. The Chairman reminded members that the session would be held on 23 June 2000 from 11:30 am to 12:30 pm.

VIII. Advance information on business for the Council meeting on 26 June 2000

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

(i) Urban Renewal Authority Bill

37. The Chairman said that the scrutiny of the bill was still in progress. He informed members that the Chairman of the Bills Committee would make a verbal report on 16 June 2000.

(ii) Employment (Amendment) Bill 2000

38. The Chairman said that the Bills Committee had completed work and would submit a written report on 16 June 2000.

39. The Chairman added that the deadline for giving notice of CSAs to the above two Bills was 16 June 2000.

Action

(b) **Government motions**

Resolution under section 4 of the Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525) - to be moved by the Secretary for Security

40. The Chairman said that the Subcommittee formed to study the Italy Order, South Korea Order and Switzerland Order made under section 4 of Mutual Legal Assistance in Criminal Matters Ordinance would report under agenda item IX(k) below.

(c) **Members' motions**

(i) **Motion on "Promoting fair competition on oil prices"**

41. Assistant Secretary General 3 informed members that Mr Fred LI had changed the topic of his motion to "Vote of no confidence in the Chairman of the Housing Authority and the Director of Housing".

(ii) **Motion to be moved by Dr Hon YEUNG Sum**

42. Assistant Secretary General 3 said that Dr YEUNG Sum had given notice to move a motion on "The Government not requiring the two power companies to increase their interconnection capacity and approving their financial plans".

43. Assistant Secretary General 3 added that the draft wording of the two motions was being considered by the President.

44. The Chairman said that the deadline for giving notice of amendments, if any, to the above two motions was 19 June 2000.

(iii) **Valedictory motion**

45. Referring members to the draft wording of the above motion, the Chairman said that as he had not received any comments on the wording from Members, he would proceed to give formal notice of the motion.

46. The Chairman reminded members that the House Committee had previously agreed that no amendment would be proposed to the motion.

47. The Chairman added that the speaking time limits stipulated in rule 17(c) of the House Rules would apply to the above three motions.

Action

IX. Reports of Bills Committees and Subcommittees

(a) Position report on Bills Committees/Subcommittees
(LC Paper No. CB(2) 2233/99-00)

48. The Chairman said that there were 11 Bills Committees and six subcommittees still in action.

49. The Chairman informed members that the Administration had notified the Secretariat that it did not intend to resume the Second Reading debate on the Adaptation of Laws (No. 9) Bill 1999, which dealt with the adaptation of 14 ordinances relating to roads and tunnels, within the current legislative session. He added that the House Committee agreed on 3 March 2000 that the Adaptation of Laws (No. 9) Bill 1999 be resumed.

50. Miss Margaret NG, Chairman of the Bills Committee on the Adaptation of Laws (No. 9) Bill 1999, said that the Bills Committee had reported to the House Committee on 3 March 2000 that the Bills Committee could not reach consensus with the Administration over the adaptation of "Crown" to "State" in certain provisions of the Bill. However, as the Administration had agreed to introduce CSAs to delete the provisions concerned and conduct a review of these provisions to address the issues raised by the Bills Committee, the Bills Committee expressed support for the Bill subject to the CSAs to be moved by the Administration. Miss NG added that the Administration had now advised that it intended to conduct a comprehensive review of the tunnel legislation instead of amending the legislation concerned in a piecemeal manner.

(b) Report of the Bills Committee on Adaptation of Laws (No.16) Bill 1999

(LC Paper No. CB(2) 2216/99-00)

51. Miss Margaret NG, Chairman of the Bills Committee, introduced the paper which detailed the Bills Committee's deliberations on the Bill. Miss NG said that as the Bills Committee and the Administration could not reach consensus on the proposed adaptation of "Crown" to "State" in the non-immunity provisions in section 18 of the Hong Kong Council on Smoking and Health Ordinance and section 19 of the Prince Philip Dental Hospital Ordinance, the Administration had agreed to move CSAs to delete the amendments to the two Ordinances from the Bill. The Administration had also undertaken to introduce legislative amendments to revise "Crown" to "Government" in the two provisions in a separate exercise in the next legislative session. Miss NG added that the Bills Committee had recommended that the Second Reading debate on the Bill be resumed on 26 June 2000.

Action

52. Members did not raise objection to the recommendation of the Bills Committee.

53. The Legal Adviser drew members' attention to paragraph 17 of the paper and suggested that the same approach be adopted in respect of the nine other bills which contained similar adaptation. Members agreed.

(c) **Report of the Bills Committee on Legal Practitioners (Amendment) Bill 1999**

(LC Paper No. CB(2) 2232/99-00)

54. Introducing the paper, Miss Margaret NG, Chairman of the Bills Committee, highlighted the Bills Committee's deliberations on appeal against decisions of the Solicitors Disciplinary Tribunal and the powers of the court to admit barristers provided in the proposed section 27 in the Bill and section 27A of the Legal Practitioners Ordinance, which were detailed in paragraphs 10 to 16 and paragraphs 17 to 33 of the paper respectively.

55. Miss NG said that the Administration would move a number of CSAs in response to the views of the Bills Committee and the legal professional bodies. Miss NG added that the Bills Committee had recommended that the Second Reading debate on the Bill be resumed on 21 June 2000.

56. Members did not raise objection to the recommendation of the Bills Committee.

(d) **Report of the Bills Committee on Building Management (Amendment) Bill 2000**

(LC Paper No. CB(2) 2235/99-00)

57. Mr CHAN Kam-lam, Chairman of the Bills Committee, introduced the paper which detailed the Bills Committee's deliberations on the Bill. He highlighted in particular the Administration's agreement to include new provisions in the Bill to address the concerns raised by the Real Estate Developers Association of Hong Kong and other organizations on the proposed quorum requirement for owners to convene an owners' meeting for the purpose of appointing a management committee. He further said that the Administration and some members of the Bills Committee would move CSAs to the Bill. He added that the Bills Committee had recommended that the Second Reading debate on the Bill be resumed on 21 June 2000.

58. Members did not raise objection to the recommendation of the Bills Committee.

(e) **Report of the Bills Committee on Companies (Amendment) Bill 2000**

(LC Paper No. CB(1) 1779/99-00)

59. Mr Ronald ARCULLI, Chairman of the Bills Committee, said that the principal purpose of the Bill was to amend the Companies Ordinance to give effect to the recommendations contained in the Report on Corporate Rescue and Insolvent Trading issued by the Law Reform Commission. The Bill also sought to rectify certain technical omissions and to streamline and update a number of provisions in the Ordinance.

60. Mr ARCULLI further said that the Bills Committee had decided to curtail the examination of the corporate rescue and insolvent trading proposals in the Bill, given the complexity of the issues involved and the fact that it was practically not possible to complete the scrutiny of the entire Bill within the limited time available. The Administration would move CSAs to delete all the clauses in relation to corporate rescue and insolvent trading from the Bill. In response to the Bills Committee, the Administration had agreed to move a number of CSAs to the Bill which were mainly of a technical nature. Mr ARCULLI added that the Bills Committee had recommended that the Second Reading debate on the Bill be resumed on 21 June 2000.

61. Mr ARCULLI also said that the Law Reform Commission and the professional bodies concerned had different views on clause 39 of the Bill, which sought to repeal section 228A of the Ordinance to remove the ability of the directors of a company by majority resolution to place the company into a creditors' voluntary winding-up. The bone of contention was the potential for abuse of the voluntary winding-up procedure in section 228A. He added that the Administration had agreed to move a CSA to clause 39 to amend section 228A so that a voluntary winding-up under this section would only be used in circumstances of extreme urgency.

62. Mr Eric LI said that there were no substantial instances of abuse of the voluntary winding-up procedure in section 228A. He further said that the Administration had not consulted the relevant professional bodies on its proposed amendment to section 228A, which was put to the Bills Committee for consideration in late May 2000. He added that the Hong Kong Society of Accountants (HKSA) had expressed reservations on the proposed amendment, and he had forwarded a copy of the HKSA's submission to the Administration for consideration. He also said that if no compromise could be reached with the Administration, he would vote against the proposed amendment. However, he expressed support for the Bills Committee's recommendation that the Second Reading debate on the Bill be resumed on 21 June 2000.

Action

63. Members did not raise objection to the recommendation of the Bills Committee.

64. The Chairman reminded members that the deadline for giving notice of CSAs to the Bill was 12 June 2000.

(f) **Report of the Bills Committee on Broadcasting Bill**
(LC Paper No. CB(2) 2234/99-00)

65. Mrs Selina CHOW, Chairman of the Bills Committee, introduced the paper and highlighted in particular the Bills Committee's deliberations on the competition provisions in clauses 13 to 16 of the Bill as detailed in paragraphs 32 to 42 of the paper. She said that the Administration had proposed CSAs to address the concerns of the Bills Committee and deputations. She added that the Bills Committee had recommended that the Second Reading debate on the Bill be resumed on 21 June 2000.

66. Members did not raise objection to the recommendation of the Bills Committee.

(g) **Report of the Bills Committee on Evidence (Amendment) Bill 1999**
(LC Paper No. CB(2) 2215/99-00)

67. Mr Albert HO, Chairman of the Bills Committee, introduced the paper which detailed the Bills Committee's deliberations on the Bill.

68. Mr HO highlighted the Hong Kong Bar Association's objection to the proposed abolition of the corroboration rules in sexual offences and the views expressed by other organizations in support of the proposed abolition of the corroboration rules, as detailed in paragraphs 9 to 11 and paragraphs 13 to 15 of the paper respectively. He added that the Bills Committee was of the view that the corroboration rules in sexual offences should be abrogated, and it had recommended that the Second Reading debate on the Bill be resumed on 21 June 2000.

69. Members did not raise objection to the recommendation of the Bills Committee.

(h) **Report of the Bills Committee on Dutiable Commodities (Amendment) Bill 1999**

70. Mr James TO, Chairman of the Bills Committee, made a verbal report on the deliberations of the Bills Committee, pending a written report to the House Committee on 16 June 2000.

Action

71. Mr TO explained that the Bill sought to strengthen the enforcement efforts of the Customs and Excise Department in tackling the problem of the supply and use of illicit fuel, and to relax control on home brewing. He added that the Bills Committee supported the Administration's proposal to expand the scope of the presumption provision in section 40(c) of the Dutiable Commodities Ordinance so that it could be invoked if a person was found to be selling, supplying or receiving light diesel oil or petrol outside licensed premises.

72. Mr TO said that the Bills Committee had expressed reservations about the proposal to add a presumption provision relating to dutiability of fuel in the fuel tanks of vehicles having a sulphur content of more than 0.05% by weight. The Bills Committee was concerned that the driver of a vehicle who might not have any knowledge of the source of the fuel in question would be exposed to the risk of criminal liability. The Bills Committee took the view that the proposed presumption provision should not be added unless the transport trade had established a proper record-keeping system on the source of fuel used in vehicles. In response to the Bills Committee, the Administration had agreed to move a CSA to delete the proposed presumption provision from the Bill.

73. Mr TO further said that Bills Committee expressed support for the proposal to increase the maximum penalty for offences related to the supply or use of marked oil and detreated oil from \$200,000 to \$1,000,000 to bring it in line with the maximum penalty for the supply or purchase of dutiable light diesel oil. However, the Bills Committee had pointed out that the penalty imposed on such offences in 1999 ranged from \$800 to \$2,000. To address the Bills Committee's concern about the deterrent effect of the penalty provisions, the Administration would move CSAs to provide for disqualification from holding a driving licence for repeated offenders.

74. Mr TO further informed members that the Bills Committee was in support of the proposal to relax control on home brewing of liquors, but considered it not necessary to specify in the Bill that the containers of home-brewed liquors should be marked legibly with the exact words "Home Brewed, Not for Sale" or "家中自釀，不得售賣". The Administration had agreed to move a CSA to specify that home-brewed liquor was required to be stored in sealed containers marked legibly either with the words "Home Brewed, Not for Sale" or "家中自釀，不得售賣" or words to that effect.

75. Mr TO added that the Bills Committee had recommended that the Second Reading debate on the Bill be resumed on 26 June 2000.

76. Members did not raise objection to the recommendation of the Bills Committee.

Action

(i) **Report of the Bills Committee on Road Traffic Legislation (Amendment) Bill 1999**

77. Mr CHAN Wing-chan, a member of the Bills Committee, made a verbal report on the deliberations of the Bills Committee on behalf of Mr David CHU, Chairman of the Bills Committee.

78. Mr CHAN said that the Bills Committee supported the proposal to introduce a probationary driving licence scheme to regulate inexperienced drivers of motor cycles and motor tricycles. He added that some members of the Bills Committee had proposed that the scheme should be extended to cover drivers of private cars and light goods vehicles. However, the majority of the members of the Bills Committee considered that the proposal should be pursued separately, taking into account the trend of the accident involvement rates of private cars and light goods vehicles and the views of the affected parties.

79. Mr CHAN further said that a member of the Bills Committee had proposed that the Bill should be amended to impose a maximum speed limit on public light buses (PLBs) similar to that imposed on motorcycles and motor tricycles. The majority members of the Bills Committee did not support the proposal. They were of the view that the speeding problem of PLBs was a different issue and should be examined separately. The Administration had advised that it was looking into the issue actively and would consult the Panel on Transport after it had drawn up proposals to tackle the problem.

80. Mr CHAN informed members that the Bills Committee would submit a written report to the House Committee on 16 June 2000. He added that the Bills Committee had recommended that the Second Reading debate on the Bill be resumed on 26 June 2000.

81. Members did not raise objection to the recommendation of the Bills Committee.

(j) **Report of the Bills Committee on Human Reproductive Technology Bill**

(LC Paper No. CB(2) 2217/99-00)

82. Introducing the paper, Miss Cyd HO, Chairman of the Bills Committee, said that the Bills Committee supported the further CSAs proposed by the Administration. She added that the Bills Committee had recommended that the Second Reading debate on the Bill be resumed on 21 June 2000.

83. Miss CHAN Yuen-han expressed strong reservations about the inclusion of surrogacy arrangements in the Bill. She said that she had given notice to

Action

move CSAs to delete the provisions relating to surrogacy arrangements from the Bill.

84. Members did not raise objection to the recommendation of the Bills Committee.

85. The Chairman reminded members that the deadlines for giving notice of CSAs to bills which would resume Second Reading debates at the Council meetings of 21 June 2000 and 26 June 2000 were 12 June 2000 and 16 June 2000 respectively.

(k) Second report of the Subcommittee to study the Italy Order, the South Korea Order and the Switzerland Order made under section 4 of Mutual Legal Assistance in Criminal Matters Ordinance (Cap. 525)

(LC Paper No. CB(2) 2209/99-00)

86. Mr James TO, Chairman of the subcommittee, highlighted the subcommittee's deliberations on the issue concerning the notification of the imprisonment of Hong Kong permanent residents in Switzerland irrespective of their consent, which were detailed in paragraphs 6 to 12 of the paper.

87. Mr TO said that the Administration had undertaken to make its best endeavours to further explore with the Switzerland authorities to see if an appropriate and balanced notification system could be instituted which would enable both parties to fulfil the obligations under the Hong Kong Special Administrative Region (HKSAR)/Switzerland Agreement on the one hand, and have regard to the wish of certain individuals who might not wish the HKSAR Government to know about their imprisonment in Switzerland on the other. He added that in the light of the Administration's undertaking, the subcommittee had recommended that the Switzerland Order be supported.

(l) Report of the Subcommittee on Rules of the District Court and District Court Civil Procedure (Fees) (Amendment) Rules 2000

88. Miss Margaret NG, Chairman of the subcommittee, made a verbal report on the deliberations of the subcommittee, pending a written report to the House Committee on 16 June 2000.

89. Miss NG said that the subcommittee had concluded deliberation on the two sets of Rules. The Administration had agreed to seek the approval of the District Court Rules Committees to introduce changes to certain provisions in the Rules to address a number of drafting and technical points raised by the Legal Service Division.

Action

90. Miss NG further said that the Administration would try to revert to the subcommittee before 14 June 2000, which was the deadline for giving notice of amendments. In the event that the Administration was unable to do so, she would give notice to move a motion at the Council meeting on 21 June 2000 to extend the scrutiny period of the Rules to the Council meeting of 26 June 2000.

(m) Report of the Subcommittee on Road Traffic (Safety Equipment) (Amendment) Regulation and Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2000
(This item is not on the agenda)

91. Mr CHAN Kwok-keung, a member of the subcommittee, made a verbal report on the deliberations of the subcommittee on behalf of Mrs Miriam LAU, Chairman of the subcommittee.

92. Mr CHAN said that the Road Traffic (Safety Equipment) (Amendment) Regulation 2000 sought to extend the seat belt legislation to cover rear seats of taxis and to improve and rectify the inconsistencies of the existing seat belt legislation. The Subcommittee supported in principle the Amendment Regulation but suggested that the Administration should follow up the issues raised by the subcommittee regarding the effect of having two front-seat passengers on the driver's driving behaviour and the need to review the formula for calculating the number of passengers that a taxi could carry in view of the requirement for both front and rear seat passengers to wear seat belts.

93. As regards the Road Traffic (Construction and Maintenance of Vehicles) (Amendment) (No. 2) Regulation 2000, Mr CHAN said that the Amendment Regulation sought to extend the emission tests to cover petrol and liquefied petroleum gas vehicles as part of their roadworthiness inspection and to introduce exhaust emission standards for these vehicles. He added that while the subcommittee was in support of the Amendment Regulation in principle, it had urged the Administration to look into the question of whether the smaller car-repairing companies had sufficient technical know-how and equipment to carry out the necessary repairs, and to consider whether the emission standard stipulated in the Amendment Regulation was appropriate.

94. Mr CHAN added that the subcommittee would submit a written report on the two Amendment Regulations to the House Committee on 16 June 2000.

95. The Chairman reminded members that the deadline for giving notice of amendments to the two Amendment Regulations was 14 June 2000.

X. Reports of Panels

(a) Report of the Panel on Administration of Justice and Legal Services re. Appointment of Judges of the Court of Final Appeal

96. Miss Margaret NG, Chairman of the Panel, said that a special meeting of the Panel was convened on 3 June 2000 to enable Panel members to know more about the procedures for the appointment of CFA judges and Members' power and constitutional duty under Article 73(7) of the Basic Law (BL) which conferred on LegCo the power and function to endorse the appointment of CFA judges.

97. Miss NG further said that the Administration's view put forward at the meeting was that CFA judges would be appointed by CE in accordance with the recommendation of the Judicial Officers Recommendation Commission (JORC) and LegCo's endorsement should only be withheld where it was satisfied that the requirement set out in the BL regarding judicial appointments had not been followed. Panel members disagreed with the Administration's view and considered that the power conferred by BL 73(7) was a substantive power to be exercised responsibly and with due regard for the independence of the judiciary. She added that Panel members did not raise any objection to the appointment of the seven persons as permanent and non-permanent CFA judges and CFA judges from other common law jurisdictions announced on 10 May 2000.

98. Miss NG also said that the Panel had invited representatives of JORC to a special meeting of the Panel on 13 June 2000 to provide the following information regarding judicial appointments to Panel members -

- (a) the general procedure adopted regarding nomination/application and selection;
- (b) the criteria of selection for recommendation including any provisions under the Court of Final Appeal Ordinance and/or any other policy considerations; and
- (c) any other consideration or procedure pertaining to the appointment of the judges of the CFA or the current exercise.

She added that non-Panel members would be welcome to attend the special meeting.

99. Miss NG said that the Panel supported the Administration giving a fresh notice to move a resolution under section 7A of the Hong Kong Court of Final Appeal Ordinance at the Council meeting on 21 June 2000. The Panel had

Action

also recommended that the appropriate Panel should, in the new LegCo term, follow up the issue of whether the modus operandi of JORC, which lacked transparency, was appropriate in present day circumstances.

(b) Report of the Panel on Housing re. Cottage Area Clearance
(LC Paper No. CB(1) 1790/99-00)

100. Miss CHAN Yuen-han introduced the paper on behalf of Mr LEE Wing-tat, Chairman of the Panel.

101. Miss CHAN said that the Panel had deliberated on the issue of granting compensation/special ex-gratia allowance to Cottage Area residents since December 1998. She stressed, in particular, the unanimous view of the Panel that Cottage Area residents should be compensated for the loss of their building structures. The Panel was disappointed that the Administration had maintained its stance of not providing a special ex-gratia allowance to Cottage Area residents.

102. Miss CHAN further said that at a meeting of the Panel on 5 June 2000, members of the Panel were unanimous in passing a motion expressing the Panel's support for Cottage Area residents to be compensated upon clearance of the Cottage Areas concerned and urging the Administration to freeze the clearance of Cottage Areas until reasonable compensation arrangements had been worked out. The Panel also agreed that the Chairman of the House Committee should put forward the Panel's requests to CE for consideration.

103. The Chairman said that he would write to CE on the matter. Members agreed.

(c) Report of the Panel on Housing re. Recommendations of its Subcommittee on Rehousing Arrangements for Residents Affected by Clearance of Squatter Areas
(LC Paper No. CB(1)1789/99-00)

104. Mr LEE Cheuk-yan introduced the paper on behalf of Mr LEE Wing-tat, Chairman of the Panel. Mr LEE explained that the paper detailed the subcommittee's deliberations on the provision of interim housing in urban areas, review of rehousing criteria and review of the rehousing policy for residents affected by clearance of squatter areas. Mr LEE said that the subcommittee had requested a meeting with the Chairman of the Housing Authority (HA), the Chairman of the Rental Housing Committee of HA, the Secretary for Housing and the Director of Housing to discuss the policy issues involved, but they had declined to meet with the subcommittee. Mr LEE added that the subcommittee was concerned about the refusal of key persons responsible for housing matters to have direct dialogue with the subcommittee. The subcommittee also considered that the negative response of the Administration

Action

had further undermined the relationship between the executive and the legislature.

105. Mr LEE further said that at the meeting of the Panel on Housing on 5 June 2000, members of the Panel noted the subcommittee's concern and agreed that the matter be brought to the attention of the House Committee.

106. The Chairman suggested that the matter be raised at his meeting with CS next week. Members agreed.

XI. Papers of the Committee on Rules of Procedure

(a) Studies on the implementation of Articles 49, 50 and 51 of the Basic Law and moving of amendment withdrawn
(LC Paper No. CB(1) 1772/99-00)

107. Mrs Selina CHOW, Chairman of the Committee, introduced the paper which detailed the findings of the studies conducted by the Committee on the implementation of BL 49, 50 and 51 and moving of amendment which had been withdrawn before it was moved.

108. Mrs CHOW drew members' attention to paragraph 5 of the paper and said that the Committee had accepted the Administration's proposal to amend Rule 66(6) of the Rules of Procedure to reflect that when the House Committee was deciding on the manner in which a bill returned under BL 49 should be considered, the House Committee might take account of an amendment bill that might have been presented by the Government.

109. Mrs CHOW then highlighted the Committee's deliberations on the procedural arrangements for processing an Appropriation Bill presented to the Council following the refusal of the Council to pass a budget under BL 50 and 51 as detailed in paragraph 10 of the paper.

110. Mrs CHOW also explained the Committee's proposal detailed in paragraphs 15 and 16 of the paper regarding the making of express provisions to the Rules of Procedure and House Rules to allow more than one Member to give notice to the same amendment.

111. Mrs CHOW added that in order to meet the 12 clear days' notice requirement, she had already given notice to move a motion at the Council meeting on 21 June 2000 to amend the Rules of Procedure in the manner as set out in Appendix 1(a) to (e) to the paper.

112. Mr Albert HO said that Members belonging to the Democratic Party were of the view that the term "budget" in BL 50 and 51 should cover both

Action

expenditure and revenue. They considered that the mechanisms provided in the two Articles should be set in motion in the event of the Council rejecting an Appropriation Bill or any major revenue proposal.

113. Members raised no objection to Mrs CHOW moving a motion at the Council meeting on 21 June 2000 to amend the Rules of Procedure as proposed.

(b) Report on the procedural arrangements for processing motions at Panel meetings

(LC Paper No. CB(1) 1773/99-00)

114. Mrs Selina CHOW, Chairman of the Committee, introduced the paper which proposed that the House Rules be amended to provide for some basic guidelines for the processing of motions at Panel meetings. Referring members to the proposed procedural guidelines as detailed in paragraph 7(a) to (d) of the paper, she said that the Committee had proposed that a new subrule (p) be added to rule 22 to put the guidelines into effect.

115. Mr NG Leung-sing said that the procedures in paragraph 7(b) and (c) as presently worded did not preclude members of a Panel deciding by a simple majority vote to request the Panel chairman to proceed with a proposed motion irrespective of the chairman's decision on the direct relevance or otherwise of the proposed motion.

116. Mrs CHOW drew members' attention to the proposed new rule 22(p) in the appendix to the paper and explained that a motion could only be proceeded with at a Panel meeting if it was considered by the Panel chairman to be directly related to an agenda item of that meeting.

117. The Chairman instructed the Secretariat to revise the wording of the new rule 22(p) in the light of the views expressed by Mr NG.

XII. Any other business

Resumption dispute between owners and tenants of the Wah Kai Industrial Centre and Lands Department

(This item is not on the agenda)

118. Mr Albert HO said that Members of the case conference regarding the compensation proposals arising from the construction of the West Rail to be offered to the owners/tenants of Wah Kai Industrial Centre in Tsuen Wan were concerned about the deadlock situation between the Lands Department (LD) and some affected factory owners over the compensation arrangements. These factory owners had claimed that they did not have the financial means to

Action

relocate their premises as they had not received the provisional compensation payments, which would amount up to 90% of the compensation offered for the affected premises. According to LD, complaints about non-receipt of the provisional compensation payments were mainly in respect of those cases which involved incomplete property title documents. Mr HO added that Mr LEE Kai-ming, convenor of the case conference, wrote to CS on 7 June 2000 requesting her to attend a meeting of the case conference on 10 June 2000 to discuss the matter, but there had not been any response from CS so far. Members of the case conference had therefore suggested that the Chairman should approach CS and request her to attend the meeting.

119. Mr LEE Kai-ming said that according to the information provided by LD, 39 cases out of the 152 outstanding cases required more time to resolve as they involved complex procedures. At the case conference meeting on 7 June 2000, members of the case conference agreed to request the Administration to withhold the clearance exercise pending the satisfactory resolution of the dispute. They also suggested that the Government should take out insurance policies to cover the risks involved in making provisional compensation payments to owners who might have difficulties in producing proper legal documents. Mr LEE added that the Administration had just advised that senior officers from the Planning and Lands Bureau and LD would attend the meeting on 10 June 2000 on behalf of CS to discuss the matter with members of the case conference.

120. Mrs Selina CHOW expressed reservations about requesting the Government to take out insurance policies to cover the risks involved in compensation arrangements. However, she agreed that the Administration should resolve the dispute with the owners and tenants concerned as soon as possible.

121. The Chairman reminded members that the item was not on the agenda. He suggested that the House Committee should await the outcome of the case conference on 10 June 2000 before deciding on the way forward. He added that he would, at his next meeting with CS, urge the Administration to resolve the matter as soon as possible. Members agreed.

122. There being no further business, the meeting ended at 6:50 pm.