

立法會
Legislative Council

LC Paper No. CB(2) 2118/02-03

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 25th meeting
held in the Legislative Council Chamber
at 4:35 pm on Friday, 16 May 2003**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-ye, GBS, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, GBS, JP
Dr Hon David CHU Yu-lin, JP
Hon Cyd HO Sau-lan
Hon Albert HO Chun-yan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon LEE Cheuk-yan
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Hon CHAN Kwok-keung
Hon CHAN Yuen-han, JP
Hon Bernard CHAN, JP
Hon CHAN Kam-lam, JP
Hon LEUNG Yiu-chung
Hon SIN Chung-kai
Hon Andrew WONG Wang-fat, JP
Dr Hon Philip WONG Yu-hong
Hon WONG Yung-kan
Hon Jasper TSANG Yok-sing, GBS, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum
Hon YEUNG Yiu-chung, BBS
Hon LAU Kong-wah

Hon Miriam LAU Kin-yee, JP
Hon Ambrose LAU Hon-chuen, GBS, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon Abraham SHEK Lai-him, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon WONG Sing-chi
Hon Frederick FUNG Kin-kee
Hon IP Kwok-him, JP
Hon LAU Ping-cheung
Hon Audrey EU Yuet-mee, SC, JP

Members absent :

Dr Hon David LI Kwok-po, GBS, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon LAU Chin-shek, JP
Hon LAU Wong-fat, GBS, JP
Hon Andrew CHENG Kar-foo
Hon LAW Chi-kwong, JP
Hon Tommy CHEUNG Yu-yan, JP
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
Hon MA Fung-kwok, JP

Clerk in attendance :

Mrs Justina LAM Clerk to the House Committee

Staff in attendance :

Mr Ricky C C FUNG, JP	Secretary General
Mr Jimmy MA, JP	Legal Adviser
Mr LAW Kam-sang, JP	Deputy Secretary General
Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Mr LEE Yu-sung	Senior Assistant Legal Adviser 1
Mr Arthur CHEUNG	Senior Assistant Legal Adviser 2

Mrs Vivian KAM	Principal Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Miss Becky YU	Chief Assistant Secretary (1)1
Mr Andy LAU	Chief Assistant Secretary (1)2
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Connie FUNG	Assistant Legal Adviser 3
Mr Stephen LAM	Assistant Legal Adviser 4
Miss Monna LAI	Assistant Legal Adviser 7
Miss Betty MA	Senior Assistant Secretary (2)1

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I. Confirmation of the minutes of the 24th meeting held on 9 May 2003

(LC Paper No. CB(2) 2047/02-03)

The minutes were confirmed.

II. Matters arising

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

(The Chief Secretary for Administration's letter dated 14 May 2003 on "Future Timetable for the Delivery of the Policy Address and Budget" to the Chairman of the House Committee)

Future timetable for delivering the Policy Address and Budget

2. The Chairman said that she had conveyed to CS Members' views on the subject and their request that the Administration should revert to the Committee on Rules of Procedure (CRoP) as soon as possible.

3. The Chairman further said that CS provided a written response on 14 May 2003 which had been circulated to all Members.

Attendance of CS at House Committee meeting

4. The Chairman informed Members that in response to her enquiry, CS indicated that he would be happy to attend a House Committee meeting, and that his Office would liaise with the Legislative Council (LegCo) Secretariat to arrange.

5. The Chairman further informed Members that CS's Office had subsequently informed the Secretariat that CS would be able to attend

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a House Committee meeting on 6 June 2003. The Chairman explained that 6 June 2003 was the earliest possible date, because 23 May 2003 was not convenient for CS, while there was a Finance Committee meeting scheduled for 30 May 2003.

6. The Chairman added that the future timetable for delivering the Policy Address and the Budget could be discussed at the meeting, as CS had stated in his letter dated 14 May 2003 that he stood ready to re-capitulate the Administration's position on the matter at his next regular meeting with the House Committee.

7. Ms Emily LAU said that she was unhappy about CS's response which, in her view, was conveying the Administration's decision on the future timetable for delivering the Policy Address and the Budget. Ms LAU further said that Members had made it very clear at the last House Committee meeting that the Administration should revert with a proposal and not a decision on the matter. Given that the Administration had already taken a decision on the matter, she wondered what could be discussed with CS when he met with the House Committee. Ms LAU suggested that the Secretariat should conduct a questionnaire survey to gauge Members' views on whether the Policy Address should be delivered in October or in January.

8. Dr YEUNG Sum expressed dissatisfaction that the Administration had already taken a decision on the future timetable for delivering the Policy Address and the Budget without further consultation with Members. Dr YEUNG said that CS would only re-capitulate the Administration's position even if he came to meet with Members. Dr YEUNG further said that the Administration had no intention to listen to Members' views on the matter, and Members belonging to the Democratic Party considered the Executive Authorities too tyrannical. He requested the Chairman to convey Members' dissatisfaction to CS.

9. The Chairman reiterated that she had conveyed Members' views to CS at their meeting on 12 May 2003. The Chairman said that Members could put forward their views on the matter to CS directly at the special meeting on 6 June 2003. It was therefore not necessary to conduct a questionnaire survey to collect Members' views on the matter.

10. Mr IP Kwok-him said that CS should meet with Members to explain the Administration's position on the matter. Mr IP considered that the proposed date of 6 June 2003 a bit late, and requested the Chairman to discuss with CS whether he could meet with Members earlier.

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11. Mr James TIEN said that the Administration should have further consulted Members before taking a decision on the matter. Mr TIEN expressed agreement that a meeting with CS be held as soon as possible.

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12. The Chairman said that she would convey Members' views to CS, and also discuss with CS whether his meeting with Members could be held on an earlier date.

(b) Future timetable for delivering the Policy Address and Budget -- the way forward i.e. whether the Committee on Rules of Procedure should continue to discuss the matter or whether the House Committee should take over the discussion

(Paragraphs 42 to 71 of the minutes of the 24th House Committee meeting on 9 May 2003)

[Previous paper: LC Paper No. CROP 55/02-03 issued vide LC Paper No. CB(2) 2016/02-03 dated 7 May 2003]

13. The Chairman said that as discussed under agenda item II(a) above, the matter would be pursued at a special meeting with CS.

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)

Broadcasting (Amendment) Bill 2003

(LC Paper No. LS 104/02-03)

14. Referring to the paper, the Legal Adviser said that the Bill sought to -

(a) introduce both civil remedy and criminal sanction against the use or possession of unauthorized decoders for commercial purposes; and

(b) impose civil liabilities for unauthorized reception of licensed subscription television programme services.

15. The Legal Adviser further said that the Panel on Commerce and Industry was consulted on 4 February 2002 on the Administration's policy proposal to combat the problem relating to unauthorized reception of subscription television programme services. The Legal Adviser added that as the Bill introduced a new policy, Members might wish to form a Bills Committee to study the Bill in detail.

16. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mrs Selina CHOW, Mr CHAN Kwok-keung and Mr SIN Chung-kai.

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17. The Chairman added that the Bills Committee would be placed on the waiting list.

(b) Legal Service Division report on subsidiary legislation gazetted on 9 May 2003 and tabled in Council on 14 May 2003

(LC Paper No. LS 108/02-03)

18. The Legal Adviser said that three items of subsidiary legislation were gazetted on 9 May 2003 and tabled in Council on 14 May 2003.

19. The Legal Adviser explained that the Fire Services (Fire Hazard Abatement) Regulation was made by the Chief Executive in Council under section 25 of the Fire Services Ordinance to deal with all matters relating to abatement of fire hazards. The Legal Adviser further explained that the Regulation also provided for the regulation of new forms of fire hazards, such as conveyance on land of a container and prohibition of using premises for illegal vehicle refuelling activities.

20. The Legal Adviser advised Members that the Bills Committee on Fire Services (Amendment) Bill 2001 had discussed the policy aspects of the Regulation and the draft Regulation, and had expected that a subcommittee would be formed to study the Regulation in detail when it was gazetted.

21. The Legal Adviser added that the Administration intended to appoint 1 January 2004 as the commencement date of the Fire Services (Amendment) Ordinance 2003 and the Regulation.

22. The Chairman proposed that a subcommittee be formed to study the Regulation. Members agreed. The following Member agreed to join : Mr IP Kwok-him. The Chairman said that a circular would be issued to invite other Members to join the subcommittee.

23. Regarding the Statutes of The Chinese University of Hong Kong (Amendment) Statute 2003, the Legal Adviser explained that the Statute was made by the Council of The Chinese University of Hong Kong under section 13 of The Chinese University of Hong Kong Ordinance to provide for the conferring of a new Master's degree, i.e. the Master of Family Medicine.

24. On the Occupational Safety and Health (Display Screen Equipment) Regulation (Cap. 509 sub. leg. B) (Commencement) Notice 2003, the Legal Adviser explained that by this Notice, the Commissioner appointed 4 July 2003 as the date on which the

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Regulation would come into operation.

25. The Legal Adviser informed Members that the Regulation had been studied by a subcommittee, and the Panel on Manpower had also been consulted on the implementation details and the commencement date of the Regulation.

26. Members did not raise any queries on the above two items of subsidiary legislation.

27. The Chairman said that the deadline for amending these items of subsidiary legislation was 11 June 2003, or 2 July 2003 if extended by resolution.

IV. Further business for the Council meeting on 21 May 2003

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

Public Officers Pay Adjustments (2004/2005) Bill

28. The Chairman said that the above Bill would be introduced into the Council on 21 May 2003 and considered by the House Committee on 23 May 2003.

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

Merchant Shipping (Liability and Compensation for Oil Pollution) (Amendment) Bill 2003

29. 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.

(c) Members' motion

Proposed resolution to be moved by Hon Andrew WONG Wang-fat under section 34(2) of the Interpretation and General Clauses Ordinance relating to the Maximum Amount of Election Expenses (Village Representative Election) Regulation

(Wording of the proposed resolution issued vide LC Paper No. CB(3)632/02-03 dated 12 May 2003.)

30. The Chairman said that Mr Andrew WONG, Chairman of the

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Subcommittee on subsidiary legislation relating to Village Representative elections, reported at the last House Committee meeting on 9 May 2003 that he would, on behalf of the Subcommittee, move a motion at the Council meeting on 21 May 2003 to amend the Maximum Amount of Election Expenses (Village Representative Election) Regulation. The Chairman further said that Subcommittee's written report was provided under agenda item VI (b) below.

V. Business for the Council meeting on 28 May 2003

(a) Questions

(LC Paper No. CB(3) 636/02-03)

31. The Chairman said that 20 questions (six oral and 14 written) had been scheduled for the Council meeting on 28 May 2003.

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

32. The Chairman said that no notice had been received from the Administration.

(c) Government motion

33. The Chairman said that no notice had been received from the Administration.

(d) Members' motions

(i) Motion on "The 4 June incident"

(Wording of the motion issued vide LC Paper No. CB(3) 639/02-03 dated 14 May 2003.)

(ii) Motion on "Clean Hong Kong"

(Wording of the motion issued vide LC Paper No. CB(3) 646/02-03 dated 15 May 2003.)

34. The Chairman said that the above motions would be moved by Mr SZETO Wah and Mr YEUNG Yiu-chung respectively and the wording of the motions had been issued to Members.

35. The Chairman reminded Members that the deadline for giving notice of amendments, if any, to the motions was Wednesday, 21 May 2003.

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VI. Report of Bills Committee and subcommittee

(a) **Position report on Bills Committees/subcommittees**

(LC Paper No. CB(2)2074/02-03)

36. The Chairman said that there were 14 Bills Committees and seven subcommittees in action as well as seven Bills Committees, including the Bills Committee on Broadcasting (Amendment) Bill 2003 formed under agenda item III(a) above, on the waiting list.

37. The Chairman further said that as there would be a vacant slot after the Bills Committee on Tung Chung Cable Car Bill had reported under item VI(d) below, the Bills Committee on Construction Workers Registration Bill could commence work.

(b) **Report of the Subcommittee on subsidiary legislation relating to Village Representative elections**

(LC Paper No. CB(2) 1974/02-03)

38. The Chairman said that Mr Andrew WONG, Chairman of the Subcommittee, made a verbal report at the last meeting on 9 May 2003, and the written report was now provided for Members' reference.

(c) **Report of the Subcommittee on Prevention of the Spread of Infectious Diseases (Amendment) Regulation 2003**

(LC Paper No. CB(2) 2058/02-03)

39. Mr Michael MAK, Chairman of the Subcommittee, reported that the Subcommittee supported the measures proposed in the Amendment Regulation. As requested by members of the Subcommittee, the Administration would move a motion at the Council meeting on 28 May 2003 to amend regulation 27C(1) to tie the provision, i.e. the taking of body temperature by authorized officers, explicitly to the control of the Severe Acute Respiratory Syndrome outbreak.

40. Mr MAK said that the Administration had undertaken to provide the relevant guidelines issued to officers concerned on the taking of body temperature for members' reference, and also to review the Quarantine and Prevention of Disease Ordinance (Cap. 141) at an appropriate time.

(d) **Report of the Bills Committee on Tung Chung Cable Car Bill**

(LC Paper No. CB(1) 1681/02-03)

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41. Mr James TIEN, Chairman of the Bills Committee, explained that the Bill sought to provide the legal framework for the grant of a 30-year franchise to the Mass Transit Railway Corporation Limited (MTRC) or its wholly-owned subsidiary for the design, construction, operation and maintenance of the Cable Car System from Tung Chung up to Ngong Ping on Lantau Island.

42. Mr TIEN said that the Bills Committee had held a total of six meetings to discuss the Bill. The Bills Committee had received two written submissions from interested parties, and had also invited MTRC to brief members on the design of the Cable Car System and related matters.

43. Mr TIEN further said that the majority of the Bills Committee members, with the exception of Mr Albert CHAN, supported the proposed Cable Car System and called for the early implementation of the project.

44. Mr TIEN further informed Members that in the course of its deliberation, the Bills Committee had examined the following issues -

- (a) the grant of a 30-year franchise, including the rights of the franchisee to determine and collect fares as well as its obligation of royalty payment;
- (b) the operation and safety standards of the Cable Car System, its environmental implications and impact on public transport operators;
- (c) penalties on the franchisee in the event of persistent failure to comply with any requirements under the Ordinance or substantial breaches of the Project Agreement as well as the mechanism for resolving disputes between the Government and the franchisee by arbitration; and
- (d) use and occupation of land by the franchisee; the creation of statutory easements, with a mechanism for payment of compensation to enable the franchisee to construct, operate and maintain the aerial ropeway over private land.

45. Mr James TIEN said that the Administration would move a number of Committee Stage amendments (CSAs) to address members' concerns and to improve the text of the Bill. The Bills Committee had not proposed any CSAs.

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46. Mr TIEN added that the Bills Committee supported the resumption of the Second Reading debate on the Bill on 28 May 2003.

47. The Chairman said that the reasons of Mr Albert CHAN's objection to the Bill were detailed in paragraph 11 of the report.

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

49. The Chairman reminded Members that the deadline for giving notice of CSAs was 19 May 2003.

VII. Report of the Panel on Administration of Justice and Legal Services on procedure for endorsement of appointment of judges by the Legislative Council under Article 73(7) of the Basic Law
(LC Paper No. CB(2) 2059/02-03)

50. Presenting the paper, Miss Margaret NG, Chairman of the Panel on Administration of Justice and Legal Services (AJLS Panel), said that the Panel, having formulated its earlier recommendation on the procedure for endorsement of appointment of judges by the LegCo under Article 73(7) of the Basic Law (BL), as set out in paragraph 8 of the paper, had requested CRoP to study whether the existing rules were adequate for implementing the recommended procedure.

51. Miss NG informed Members that CRoP was of the view that as proposals for the appointment of judges were not policy matters that could be referred to Panels for discussion, should the House Committee wish to refer the proposed judicial appointments to a Panel for consideration, the Rules of Procedure would have to be amended. Members of the AJLS Panel were consulted on the view of CRoP and had no objection to the House Committee referring proposals on appointment of judges to a subcommittee, instead of a Panel, for discussion. The modified procedure recommended by the AJLS Panel was set out in paragraph 16 of the paper.

52. Miss NG further informed Members that the AJLS Panel had also recommended that in seeking LegCo's endorsement of a judicial appointment under BL 73(7), the information provided by the Administration should include as many as possible of the items contained in the questionnaire set by the United States Senate Judiciary Committee and the application form for appointment as Justice of the High Court in the United Kingdom.

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53. Miss NG added that the AJLS Panel would follow up CRoP's suggestion on whether the procedure for endorsement of judicial appointments by LegCo should also apply to endorsement of removal of judges.

54. Members endorsed the modified procedure recommended by the AJLS Panel for LegCo to endorse the appointment of judges under BL 73(7), as set out in paragraph 16 of the paper.

VIII. Director of Administration's letter dated 2 May 2003 on "Senior Judicial Appointments"

55. The Chairman said that in accordance with the procedure recommended by the AJLS Panel and endorsed by the House Committee under agenda item VII above, the senior judicial appointments detailed in the Director of Administration's letter dated 2 May 2003 on "Senior Judicial Appointments" would be referred to a subcommittee for discussion. The following Members agreed to join the subcommittee : Miss Margaret NG, Mr TSANG Yok-sing and Ms Emily LAU.

IX. Non-attendance of government officials at the meeting of the Panel on Housing on 5 May 2003

(LC Paper No. CB(1) 1654/02-03)

56. Mr CHAN Kam-lam, Chairman of the Panel, said that the paper reported on the non-attendance of two government officials at the meeting of the Panel on Housing on 5 May 2003, for discussion of the item on "Review of the policy on single-operator markets".

57. Mr CHAN informed Members that on 5 May 2003, when the Panel was ready to discuss the item, there was no sight of the two government officials. He had to suspend the meeting for 10 minutes during which the Clerk got in touch with the Administration and was given to understand that due to communication problem on the part of the Administration, the two government officials were not aware of the time of the meeting, and therefore did not turn up. As Panel Chairman, he had no choice but to defer discussion of the item to the following meeting on 2 June 2003. Mr CHAN said that Panel members were unhappy about the incident and had requested that the matter be brought to the attention of the House Committee.

58. Mr CHAN further informed Members that following the incident, Mr C M LEUNG, Permanent Secretary for Housing, Planning

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and Lands (Housing), had called him and had undertaken to investigate the incident. Mr LEUNG had also sent two letters to him apologizing for the inconvenience caused and admitting that there had been internal communication problems over the meeting arrangements.

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59. Mr CHAN Kam-lam said that as Mr C M LEUNG had investigated the matter and assured the Panel that measures had been taken to improve the internal communication systems to prevent the recurrence of similar incidents, he personally considered it unnecessary to pursue the matter further.

60. Mr Fred LI said that he was the one who proposed the item of "Review of the policy on single-operator markets" for discussion. He was therefore very angry that the two government officials failed to attend the meeting on 5 May 2003. However, since the Administration had already apologized, he agreed that the matter needed not be pursued.

X. Papers of the Committee on Rules of Procedure

(a) Proposed arrangements for the debate on the next Policy Address

(LC Paper No. CROP57/02-03)

61. Mr TSANG Yok-sing, Chairman of CRoP, said that CRoP had reviewed the arrangements for the debate on the Policy Address in the 2002-03 LegCo session and considered the views of Members and the Administration on the arrangements. Mr TSANG further said that after discussion, CRoP was of the view that the arrangements for the debate on the Policy Address in the current session should continue, but six issues, as detailed in paragraph 2 of the paper, required further review.

62. Mr TSANG informed Members that CRoP had conducted a survey to consult all Members on the arrangements for the debate on the next Policy Address. A total of 56 Members had responded to the questionnaire survey and their views on the six issues were detailed in the Appendix to the paper. Mr TSANG pointed out that except for the issue of speaking time limit for designated public officers, there was a majority view on the other five issues. He added that Members' views on the issue of speaking time limit for designated public officers were summarized in paragraph 4 of the paper.

63. Mr TSANG further informed Members that having considered the consultation results at its meeting on 5 May 2003, CRoP agreed that the arrangements for the debate on the Policy Address in the current session should continue subject to the adjustments detailed in paragraph 6 of the paper.

64. Mr TSANG Yok-sing said that as the Administration had not

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been consulted on CRoP's proposal on the speaking time limit for designated public officers in each debate session, the LegCo Secretariat was seeking the Administration's comments. Mr TSANG added that should the Administration hold a different view on the proposal, CRoP would further consult the House Committee.

65. Referring to paragraph 6(a)(i) of the paper, The Chairman asked whether CRoP had considered limiting the speaking time for each public officer to 15 minutes, even though there would only be one or two public officers speaking.

66. Mr TSANG Yok-sing responded that the Administration had in fact proposed this option, i.e. irrespective of the number of public officers speaking in a debate session, each of them would be allowed to speak for a maximum of 15 minutes. Mr TSANG said that CRoP had considered this option, but was of the view that the present proposal of allowing each public officer to speak for not less than 15 minutes, subject to the total speaking time limit of 45 minutes if there were only one or two officers speaking a debate session, would allow flexibility for a public officer to speak freely on important policy issues.

67. Members endorsed the proposed arrangements for the debate on the next Policy Address, as set out in paragraph 6 of the paper.

(b) Streamlining of procedure for shortening the duration of the division bell

(LC Paper No. CROP58/02-03)

68. Mr TSANG Yok-sing, Chairman of CRoP, said that at the House Committee meeting on 16 March 2001, a member suggested that the procedure for shortening the duration of the division bell from three minutes to one minute should be streamlined, and the suggestion was referred to CRoP for consideration.

69. Mr TSANG further said that CRoP had considered that the requirement under the Rules of Procedure, that the division bell should be rung for three minutes before a division was held unless the Council passed a motion to shorten the duration to one minute, had the merit of ensuring that the decision to shorten the duration of the division bell was one that was consciously made by the Council at the relevant Council meeting.

70. Mr TSANG informed Members that CRoP was of the view that the existing procedure for shortening the duration of the division bell was appropriate and should continue.

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71. Members expressed agreement to CRoP's views, as set out in paragraphs 5 and 6 of the paper.

72. The Chairman said that she had requested the Secretariat to simplify the "standard script" for her to move the motion to shorten the duration of the division bell, and that she would speak in English.

XI. Any other business

73. There being no other business, the meeting ended at 5:10 pm.

Council Business Division 2
Legislative Council Secretariat
21 May 2003
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