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By Fax & By Post

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HONG KONG
(Fax No. : 2501 0724)

Dear

Operation of section 9, Coroners Ordinance (Cap. 504)

I refer to your earlier request for information relating to the operation of section 9 (Investigations into deaths) of the Coroners Ordinance (Cap. 504) (“the Ordinance”) in the context of the shooting incident which happened earlier in Tsimshatsui. The relevant information is set out below.

Section 9 of the Ordinance provides that-

- (1) Subject to subsection (2), a coroner may investigate-
 - (a) a reportable death; or
 - (b) any other death of a person which the coroner considers should be investigated in the public interest,
whether or not-
 - (i) the coroner has viewed the dead body concerned;
 - (ii) an autopsy has been performed on that body;
 - (iii) an inquest into the death is to be held by the coroner; or
 - (iv) an investigation into the death has previously been carried out.

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- (2) The purpose of an investigation into the death of a person carried out pursuant to subsection (1) shall be to investigate the cause of and the circumstances connected with the death and, for that purpose, the investigation shall be directed to ascertaining the following matters in so far as they may be ascertained-
- (a) the identity of the person;
 - (b) how, when and where the person came by his death; and
 - (c) the particulars for the time being required by the Births and Deaths Registration Ordinance (Cap 174) to be registered concerning the death.

The situations which make a death reportable are set out in Schedule 1 to the Ordinance. Of particular relevance to the instant case would be item 4 (any death of a person where a crime or suspected crime caused the death), item 13 (any death of a person where the death occurred during the course of the discharge of his duty by a person having statutory powers of arrest or detention), and item 17 (any death of a person where the death was caused by homicide) of Schedule 1.

Under section 10 of the Ordinance, a coroner has the power to authorize any police officer to enter and search premises (include domestic premises) or to require the production of, seize, detain and remove any thing which may be relevant to the cause of or the circumstances connected with the death.

There was no provision in the former Coroners Ordinance (Cap. 14) relating to a coroner's power to investigate or to authorize entry and search. The existing Coroners Ordinance was passed on 23 April 1997. It repealed and replaced the former Coroners Ordinance. The introduction of the Coroners Bill into Legislative Council in 1996 was a result of the Report on Coroners published by the Law Reform Commission ("LRC") in 1987. Chapter 3 of the Report concerns with investigation into the circumstances of a death. In the Report, the LRC proposed that a coroner should assume responsibility for the investigation of his cases from the time when they are reported to him, and that the coroner should have under his control a legally qualified chief coroner's officer and teams of investigators (page 66 – 67 of the Report, **Annex I**). The Bill also added "assisting coroners to discharge their duties and exercise their powers under the Coroners Ordinance" into the list of duties of the police force prescribed in the Police Force Ordinance (Cap. 232) as a consequential amendment.

At resumption of second reading debate of the Bill, Members stated that they supported the proposal that coroners should be given complete independent autonomy to investigate where necessary, and was of the view that this was especially so in the case where the reportable death involved the police or under police custody. The Administration did not agree with the proposal made by the LRC. Members did not move any amendment to the Bill in this respect because such an amendment would have a charging effect, and accepted the “consolation prize” that a provision “a coroner may request the Commissioner of Police to take such measures as are necessary to ensure that the investigation into the death is conducted independently and impartially” be added into section 15 by way of a committee stage amendment moved by the Administration (an extract of the second reading debate of the Bill is in **Annex II**).

It would seem that the power of a coroner to investigate under section 9 of the Ordinance is distinct from his other duties under the Ordinance. The purpose of the investigation is specified as “to investigate the cause of and the circumstances connected with the death and, for that purpose, the investigation shall be directed to ascertaining how, when and where the person came by his death....”. In the light of the provisions in the Ordinance and the Police Force Ordinance, and the speech of the then Secretary for Security at second reading debate, it was intended that investigation would be conducted by the police. Such an intention could also be reflected by the provision in section 15 of the Ordinance that where the person died whilst in police custody or during the course of a police officer’s discharge of duty, a coroner may request the Commissioner of Police to take such measures as are necessary to ensure that the investigation is conducted independently and impartially. Looking at the background leading to its addition, this provision was meant to be a safeguard that investigation by a coroner could be carried out independently and impartially. Whether this safeguard could address the concerns of Members or the public in the circumstances of the instant case would be a matter for Members.

Yours sincerely,

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c.c. LA

Clerk to Panel on Security



THE LAW REFORM COMMISSION
OF HONG KONG

香港法律改革委員會

REPORT ON CORONERS
(TOPIC 14)

死因裁判官專題研究報告書
(論題十四)

delay. Police cannot be expected to attach the same priority and urgency to this type of investigation when investigation of crime is their primary concern.

A new approach to investigations

3.41 Merely to suppress the symptoms of an ailment will rarely provide a cure. We believe that the defects which have manifested themselves in the present system of investigating coroner's cases will not be rectified by limited procedural improvements. We believe that the failure of the existing investigatory process to achieve an adequate standard of efficiency is attributable to a fundamental root cause - the remoteness of the coroner from the investigatory process and the degree of dependence which he has upon others to investigate his cases.

3.42 The investigation of coroner's cases must, by definition, be the responsibility of the coroner. Investigation by judicial inquest is only one part of a much longer process which cannot be artificially divorced from the collection of the evidence preceding it. We propose, therefore, that a coroner should assume responsibility for the investigation of his cases from the time they are reported to him. In order to carry out this responsibility coroners should have under their control a legally qualified chief coroner's officer and teams of investigators.

3.43 The new coroner's office will have to be properly equipped to deal with its increased responsibilities. The unit should be provided with access to the services and resources of other Government departments such as Forensic Pathology Service, Government Chemist, Labour Inspectors, etc. (and internal regulations of such departments should reflect the confidentiality attaching to coroner's investigations). It should also be provided with such clerical and administrative support as may be required for it to discharge its duties satisfactorily.

3.44 We believe that officers under the direct control of the coroner who are properly equipped would quickly develop a high degree of expertise and efficiency. They would soon be able to investigate the more complicated coroner's cases in a fraction of the time spent at present. The advantages to the Police Force of such a system are that more officers would be made available for normal police duties and, as better use would be made of existing manpower, efficiency would increase correspondingly. By virtue of the nature of the work to be undertaken by the unit and its orientation towards judicial proceedings, it should be centrally located and housed in the same premises as the coroner's court and, taking into account current requirements, it should ideally be located in Kowloon.

3.45 These proposals will place additional responsibilities on the coroner, but we believe this to be essential if he is effectively to control the investigation which he is required by law to carry out. The coroner already occupies an important position within the judicial system and this position will be enhanced if our recommendations are implemented. The status and responsibility of the coroner would be at least as great as that of a district judge and we strongly recommend that this fact be reflected in the remuneration paid to the coroner. We recommend also that the posts of interpreters and judicial clerks in the coroner's office be upgraded in the light of their increased responsibilities and the complex nature of their work. In the case of interpreters, the necessity to keep up to date with the technical terms used in inquests is such that the unusually demanding nature of their work should properly be reflected in their salary. In the case of judicial clerks, their responsibilities for ensuring the smooth running of the coroner's office and the compiling of statistics in the light of our recommendations should also, we believe, be reflected in their salary.

Resumption of Second Reading Debate on Bill**CORONERS BILL****Resumption of debate on Second Reading which was moved on 7 February 1996**

DR LEONG CHE-HUNG: Mr President, I rise to speak in my capacity as the Chairman of the Bills Committee formed to study the Coroners' Bill. This Bill seeks to repeal and replace the existing Coroners Ordinance (Cap. 14) in order to give effect to the majority of the recommendations contained in the Report on Coroners issued by the Law Reform Commission. The Bills Committee has held 10 meetings with the Administration and has met deputations from the Hospital Authority, the Hong Kong Medical Association and the Hong Kong Patients Rights Association. Members also visited the Coroner's Office in April last year to further understand the work of the Coroner. I shall highlight the major issues considered by the Bills Committee.

As a start, Mr President, members were puzzled why this Bill only surfaced so late — nine years after the Law Reform Commission issued the Report on Coroners; furthermore, whether the recommendations issued some nine years ago were still applicable today.

Regrettably, the reasons given by the Administration did not really hold water and left members in a more confused state. Reasons given included: the Bill was very complicated, it needed longer time to be drafted and to have extensive consultation with government departments and policy branches — nine years, and that the Administration Wing of the Chief Secretary's Office did not give top priority to this Bill till recently because of other urgent commitments. Nevertheless, members do recognize the need for certain issues within this Bill, perhaps with major modifications.

The list of reportable death was a specific and typical example. Members felt that the list was unnecessarily wide and produced implementation problems for the medical profession and raise mental and psychological hardship to the families in grief. To this end, the Bills Committee sought the Hong Kong Medical Association's and the Hospital Authority's assistance in identifying the unnecessary and borderline cases. This was also agreed by the

Hong Kong Patients Rights Association. We are glad that after repeated and, perhaps, heated debate, the Administration finally saw the light, took on board the concerns expressed and will be amending the list of reportable deaths accordingly.

At present, Mr President, all investigations related to coroner's cases are done by the police and that when the Bill is passed, police officers seconded to the Coroner's Office to assist in the deliberation of causes of death are still accountable to the Commissioner of Police. Members of the Bills Committee held the strong view that the Coroners should be given the complete independent autonomy to investigate where necessary. This is especially so in the case where the reportable death involved the police or under police custody. This is not only in line with public interests but also ensures that the work is open and transparent.

Regrettably, this is one area of many that the Administration does not and will not see eye to eye with members, and will only advise that such cases involving the police will be dealt with at a higher level and be investigated by a separate police division. Furthermore, since separate investigation is also held by a forensic pathologist, the Administration considered that comprehensive checks and balances are already in place. Nevertheless, the Administration has acceded to members' request to include a provision to empower the Coroner to ask the Commissioner of Police to take such measure as necessary to ensure that the investigation into the deaths involving police are conducted independently and impartially. This is by no means ideal and the Bills Committee could only consider this as a consolation prize.

Another area where the Bills Committee and the Administration are worlds apart concerns the extension of legal aid to Coroner's inquest. Whilst members appreciate the resources implications involved if legal aid is extended to Coroner's inquest, nevertheless, it is against the public interest to exclude those aggrieved families without financial support from legal assistance from the final chance of clarifying their suspicion and concern. This is supported by the Hong Kong Patients Rights Association. Regrettably again, the Bills Committee could only be given the assurance that the Administration will consider the matter in the next overall revision of the whole issue of legal aid.

With regards to the criteria used by the Coroner in deciding whether an inquest should be held with or without a jury, the Administration has held that it would not be appropriate for all inquests to be held with a jury as it would greatly lengthen the time for Coroners' inquests. Nevertheless, the Administration has, in response to concerns raised by members, agreed to move amendments to specify that a Coroner shall not hold an inquest without a jury unless he has taken into account the representations made by any properly interested person and he is satisfied that the holding of the inquest without a jury is not a less just manner of disposing the inquest.

The Bills Committee was concerned that witness statements, technical or medical reports are not available to properly interested persons prior to an inquest. As a result, solicitors are not able to study them before the inquest or to seek expert opinion. The Administration has agreed that such information could be provided by the Coroner upon request.

As for cases where the Coroner has decided not to hold an inquest, members are of the view that family members of the deceased person should also have the right of access to the death report. The Administration has no objection in principle to release the death report, provided that the personal particulars of witnesses are deleted from the copy of the report to protect their privacy. The Administration has agreed to introduce a new clause 12A to allow for the release of death report on the condition that in doing so, the Coroner shall delete the personal particulars of the witness from the copy to be supplied, unless that person has expressed consent. The clause proposed would also include the provision that witnesses would be advised that their statements will be made available to properly interested persons.

Mr President, while agreeing that witnesses should be properly advised before the giving of statements, members find the proposed deletion of personal particulars unacceptable because if an inquest is held, the personal particulars of the witness will be revealed to the court and there should be no difference on this point whether an inquest is held or not. The overriding principle should be that family members should have access to the same relevant information and therefore the identity of the witness should not be withheld. As members find that the new clause 12A proposed by the Administration has not addressed their concern, it was agreed that the Bills Committee should move an amendment to have its own version of new clause 12A, which was basically the

same as that proposed by the Administration, except that it would not provide for the deletion of personal particulars.

I understand that the Attorney General has written to members to allay his concern in this amendment that I will be moving on behalf of the Bills Committee. I am sure Members and I will have more to say on this when I move the amendment, if I have the chance.

I would like to take this opportunity to thank the organizations concerned for their constructive comments and suggestions to the Bills Committee in the course of our deliberation. I would also like to thank the Administration for taking on board at least a number of members' suggestions to improve the Bill.

Mr President, I would like to say a few words and turn on to express my own views on behalf of the medical and dental professions.

Mr President, I started my debate today to say that the Bill was based on the report of the Law Reform Commission nine years ago. During that time, the medical profession was asked to comment and make recommendation on the list of reportable deaths. Dutifully we did. Yet the list of reportable deaths in this Bill, nine years later, has shown no consideration whatsoever for what the medical profession has expressed, many of which are considered as for the public interest. Are these consultation exercises just a lip service or autocracy in democratic disguise?

Mr President, during the deliberation of this Bill, it was brought to the attention of members that a set of guidelines very similar to the list of reportable deaths in this Bill, and on the procedure for reporting has already been in existence within the Hospital Authority. Yet, because these are guidelines, they are only followed with discretion and flexibility.

Regrettably, this has brought on the Administration to respond that "since doctors did not have to follow guidelines, it strengthened the Government's belief that laws must be established". Such lack of trust of a profession by the Administration leaves a lot to be desired. I would therefore like to raise my strongest objection to such remark and the implication behind it as it amounts to a defamation against the constituents I represent.

The profession, however, is most grateful and to the Honourable Miss Margaret NG — I am sorry that she is not here — for pointing out that guidelines are different from codes of practice and should be followed with flexibility. She further stated rightly that the Administration should not prejudge any representation of professions as necessarily a representation of self interest.

Mr President, with these remarks, I recommend the Bill to Members subject to the amendments we shall move at Committee stage.

MR ALBERT HO (in Cantonese): Mr President, the Democratic Party supports the resumption of the debate on the Second Reading of the Coroners Bill as well as its Third Reading. We also support the amendments proposed by the Government except one, and that is the one mentioned by the Bills Committee Chairman Dr LEONG Che-hung about the release of the written death report in the event that an inquest is not held. Instead, we will support the amendment to be moved by the Bills Committee providing that the Coroner must release the complete written death report. Later, during the debate on the amendments, I will state our reasons in detail.

First of all, I would like to say that we should recognize the importance of the passage of this Bill. The Bill represents a major reform, which is the modernization of the extremely out-dated, crude Coroners Ordinance and the introduction of a sound mechanism, in order to provide the people concerned with more safeguards and ensure that they have greater right of access to information.

Mr President, in a modern civilized society, the life of every individual is valuable and should be equally respected. If anyone should die tragically and the death circumstances are suspicious, we certainly need an autonomous and fair mechanism and independent persons in charge of this mechanism to investigate the circumstances, causes of death and the identity of the deceased, in order to decide whether to hold an independent inquest. In the course of the inquest, it will transpire whether the authorities have carried out an impartial investigation into the causes of death.

Mr President, only in uncivilized, backward societies which hold human lives cheap will there be situations where people die without anyone knowing where they die, and the identity of the dead may not be known. Maybe their bodies are buried in unmarked burial-mounds and nobody even cares. Of course, it would also be impossible to have a system to monitor the burial of the dead.

Therefore, we feel that in a developed society like Hong Kong where the rule of law prevails, it is extremely important to have a good Coroner's inquest system. During the deliberation of the Coroners Bill, we had very detailed discussions and heard the views of the organizations concerned. As Dr the Honourable LEONG Che-hung said, we are grateful to government officials for providing us with information, responses and answers. I have to point out several important points where improvement is necessary.

The first thing is to legislate to define more clearly the circumstances under which the relevant persons have to make the so-called "death report" to the Coroner. In scrutinizing the Bill, the first question we had to ask was: under what circumstances should the Coroner be notified? Naturally, medical organizations, patients rights groups and certain human rights organizations were most concerned about this point. After discussion, we were pleased to see that the medical profession and the Administration were able to reach a consensus so that some vague and unreasonable definitions were clarified.

One point that I insisted on adding is that we must not only take into account deaths that occur during arrests made by persons with the power of arrest or custodial power, but also deaths that occur in the course of exercising powers by those persons with the power of arrest or custodial power. Such cases should be reported to the Coroner as soon as possible and he should decide whether to conduct further inquiries or hold a public inquest. Why is this point so important? I recall some complaints which I received alleging that while the police were chasing some illegal immigrants or suspected illegal immigrants in a construction site, some of the pursued climbed up some structures and fell to their death, for which the dangerous surroundings were probably to blame. Unfortunately, only a long time after the event did someone come to my office with the complaint that the police's pursuit might have led to the deaths. The fact that they were chasing so hard caused those people to climb up very high structures, from where they fell. Therefore, Mr

President, some circumstances might be worth our examining to see whether the police have to take some safety measures when they pursue or arrest illegal immigrants in construction sites in future, so that people would not suspect that the police arrest action might have caused deaths. In other cases, someone might die of his illness during an arrest. However, this might only be the superficial cause of death. Might it not have something to do with the way in which the arrest was made and the surroundings as well? Thus I feel there should be legislation providing that such cases must be reported to the Coroner, who would decide whether an inquest is required.

During the deliberation of this Bill, we proposed many major amendments which the Administration agreed to. These amendments guarantee that properly interested persons have the right to know and the right to give their views where appropriate. Just now the Chairman Dr LEONG Che-hung also mentioned that before holding the inquest, the Coroner might decide whether to have a jury or not. After discussion, we felt that the discretion should be left to the Coroner. However, the affected persons and family members or properly interested persons should be informed of the Coroner's decision so that in the meeting prior to the inquest, they can voice their opinions. Even if the Coroner does not hold a meeting prior to the inquest and decides privately to hold the inquest without a jury, I feel that family members should still be informed and if they are dissatisfied, be given the opportunity to apply to the High Court for a review. Besides, prior to an inquest, properly interested persons or family members who might attend the inquest must be given access to sufficient information for studying.

I myself have attended such inquests before. Formerly, the relevant reports were not available until right before the inquest or before the witnesses gave their statements. Those reports were sometimes very technical in nature. Some of them were medical reports, others were engineering reports. In cases of industrial accidents, there would be a huge pile of reports which we would receive only at the last minute. As lawyers, we had no time to seek expert opinion. As a result, the legal representatives of family members could not ask very pertinent questions and do their job. I am glad that after the amendment to the Ordinance, family members or properly interested persons who will attend the inquest will have access to reports and witness statements. I consider this a major improvement.

I would also like to thank government officials, especially the Judiciary Administrator for making interim arrangements before the amending ordinance comes into effect, that is, when the Bill was still in the process of deliberation. Earlier, the court already started supplying family members and properly interested persons with these statements and reports prior to holding the inquests. I appreciate this very much and I thank them now.

There is another important improvement. Mr President, just now Dr LEONG Che-hung, chairman of the Bills Committee, also mentioned that even if an inquest is not held, family members of the dead still have the right to know. An important amendment has been introduced so that in cases where an inquest is not held, the Coroner still has to supply the relevant information to the family members so that they can know about the death circumstances. He also has to supply the witness statements, in order that they can decide what they must do, be informed about the circumstances, or even have some of their doubts clarified or derive some consolation therefrom. Thus if an inquest is not held, it is absolutely necessary to furnish family members and properly interested persons with the information.

Mr President, Dr LEONG Che-hung also mentioned just now that during the deliberation, several issues aroused great controversy, including the issue of police investigation. We strongly demanded to have independent investigators during the Coroner's inquiry, especially in relation to deaths occurring under police custody. Such independent investigators may be seconded from the police or from other disciplined services, in order to ensure that their investigation is completely independent of the police. Regrettably, the Administration steadfastly refused our demand all the way. Mr President, even if we had proposed the amendment, you would not have allowed it on account of the financial implications. Under these circumstances, we could only seek a compromise and ask for an amendment to provide that the Coroner can issue a guideline to the Commissioner of Police to take certain measures in order to ensure that the investigation is really conducted independently. Under the circumstances, we had no choice but to accept this amendment, which the Administration also agreed to.

I want to stress again that legal aid is needed for Coroner's inquests. Of course, I know that the Administration holds a different view. After studying the case in many countries in the world, it has found that legal aid is not

extended to Coroner's inquests in these countries. However, the Patients Rights Association has presented many cases to us where a lot of people who had lost their family members had no money to hire a lawyer, nor could they obtain legal aid. As a result, when they attended the inquests, due to ignorance of the procedures, a lot of misunderstanding was created, which sometimes led to much grief. We feel that many things can in effect be avoided. In the past, while interested parties, such as hospitals or doctors (since doctors have associations), or construction companies in the case of industrial injuries or deaths, all had the means to hire a lawyer, family members of the deceased had not. This resulted in an unfair situation. While one party of the inquest had a lawyer to tell them how to answer many questions, the family members of the deceased had no one to help them and explain to them, which led to misunderstanding and unnecessary pain. This problem need to be dealt with and solved. I have repeatedly asked the Legal Aid Department to consider whether legal aid should be extended to Coroner's inquests when they carry out their overall revision. We, the Democratic Party, demand that legal aid be extended to Coroner's inquests.

The last point is about autopsy. The Patients Rights Association stressed that family members of the deceased have the right to have an independent autopsy performed or hire a pathologist at their own cost to attend the autopsy. The Administration explained and reiterated that family members of the deceased and properly interested persons could hire a pathologist to attend the autopsy. However the autopsy has to be performed by a forensic pathologist specified by the Administration or the Coroner. I have accepted the Administration's explanation. I feel that this arrangement can guarantee family members' right to know and it allows the pathologist to give his advise on the spot.

Mr President, in the light of the above, I urge colleagues to support the passage of this Bill. Thank you, Mr President.

ATTORNEY GENERAL: Mr President, as I explained when I introduced this Bill into Council in February last year, the objective of this Bill is to repeal and replace the existing Coroners Ordinance in order to give effect to the majority of the recommendations contained in the report on coroners issued by the Law Reform Commission in 1987.

I would first of all like to thank members of the Bills Committee, especially its chairman, Dr the Honourable LEONG Che-hung, for their very hard work and thorough examination of this important Bill, and I would also like to say that I have listened very carefully and have taken note of the remarks put to the Council this afternoon by Dr LEONG and by the Honourable Albert HO, and will reflect on them to the extent that they are not already covered in this Bill in the Committee stage amendments.

Mr President, the Administration has responded positively to most of the ideas put forward by members of the Bills Committee and by the medical and the legal professions, and as a result, I will be moving a number of Committee stage amendments later this afternoon. There is, Mr President, only one amendment in respect of which agreement has not been reached between the Administration and some members of the Bills Committee. I have listened with particular care to the arguments advanced by Dr LEONG and Mr Albert HO, but I have to say that I remain wholly unconvinced of the need for their amendment.

The amendment relates to the situation where a coroner has decided not to hold an inquest into the death of a person, and I would just ask Members to bear in mind that situation. This is a situation where the coroner has decided not to hold an inquest. And in that situation, a person with a proper interest in the death, such as a family member, wishes to obtain a copy of the police report about the death. Now, the Administration agrees with the suggestion that in such circumstances the coroner should supply a copy of the death report. We do not have a problem with that. However, when this is done, it is important that the privacy of witnesses is protected, and Mr President, for this reason, the Committee stage amendment that I will move later this afternoon, adding a new clause 12(A) to the Bill, provides that the coroner must delete the personal particulars of any witness from the copy of the death report supplied unless the witness has expressly consented to the disclosure of those particulars.

Provision is also made for the police to advise a witness who is making a statement in relation to the death of a person that the statement may be provided to properly interested persons.

As we have heard, the Chairman of the Bills Committee, Dr LEONG, will propose a Committee stage amendment to add a new clause 12(A) which mirrors the Administration's, except that it contains no requirement to delete the personal particulars of a witness if no express consent is given to their disclosure.

Dr LEONG has argued that family members of the deceased person should be entitled to ascertain the personal particulars of witnesses, even if they have not agreed to those particulars being disclosed. It is contended that those particulars may help the family members to assess whether the witness statements are reliable, to contact the witnesses if they need further information, to judge the fairness of the decision not to hold an inquest, and, if necessary, to persuade the Attorney General to require an inquest to be held.

Mr President, the Administration accepts that the disclosure of the personal particulars of witnesses to family members of the deceased or to other properly interested persons would be helpful to them, or could be helpful to them. However, one must not overlook the legitimate interests of the witnesses themselves. Whilst they may be willing to give a statement for the purpose of the coroner's investigation into the death, they may not wish to become involved with family members of the deceased. There may be good reasons for this, for example, in some situations, witnesses might fear for their personal safety if their identity is revealed to family members of the deceased; and, Mr President, this is not a fanciful or theoretical thought. What if the deceased were killed by a family member? If the witness's personal particulars were to be disclosed in such a situation, this would undermine all the progress in respect of witness protection that has been achieved in recent years.

It has also been argued that if an inquest had been ordered, the personal particulars of the witness would have been revealed publicly so that the witness cannot complain if they are disclosed where no inquest is held. But, Mr President, the personal particulars of a witness at a coroner's inquest are not always publicly revealed. If, for example, the witness fears for his or her personal safety, the coroner can take steps to protect the anonymity of the witness. The same applies if a criminal trial is held in respect of the death.

The situation under consideration is similar to that where witness statements are obtained for the purposes of criminal or civil litigation involving the Administration. If the case proceeds to trial, if the case proceeds to trial, personal particulars of witnesses may be revealed publicly. But if the case does not proceed to trial, witness statements would not be released by the Administration to a third party for other purposes, except with the consent of the witness or by order of the court, for example, by way of discovery.

The Administration believes that it is important that the personal privacy of a witness is adequately protected and that a person has a right to give or not to give consent to his personal data being disclosed otherwise than for the purpose of an inquest. The Administration cannot, therefore, support Dr LEONG's proposal and I urge Members to support the Committee stage amendment that I will shortly be moving.

Mr President, with these remarks and subject to the Committee stage amendments proposed by the Administration, I commend this Bill to Honourable Members.

Question on the Second Reading of the Bill put and agreed to.

Bill read the Second time.

Bill committed to a Committee of the whole Council pursuant to Standing Order 43(1).

Third Reading of Bills

THE ATTORNEY GENERAL reported that the

CORONERS BILL and

**ADMINISTRATION OF JUSTICE (MISCELLANEOUS PROVISIONS)
(NO. 2) BILL 1997**

had passed through Committee with amendments. He moved the Third Reading of the Bills.

Question on the Third Reading of the Bills proposed, put and agreed to.

Bills read the Third time and passed.