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Resumption of Second Reading Debate on Bill
恢復條例草案二讀辯論

SUPREME COURT (AMENDMENT) BILL 1997
《1997 年最高法院（修訂）條例草案》

Resumption of debate on Second Reading which was moved on 5 March 1997
恢復於一九九七年三月五日動議之二讀辯論

MISS MARGARET NG: Mr President, may I have a brief moment, please. Mr President, I seem to have lost my speech. Mr President, can I ask for an adjournment of five minutes so that I could find my speech? I am very ashamed of myself.

8.31 pm
晚上 8 時 31 分

PRESIDENT: I order a suspension of five minutes.

8.36 pm
晚上 8 時 36 分

Council then resumed.
本局會議隨而恢復。

MISS MARGARET NG: Mr President, the main purpose of the Supreme Court (Amendment) Bill 1997 is to re-enact in an updated form the provision of the two United Kingdom Acts, Habeas Corpus Acts 1679 and 1816 insofar as those acts are relevant to Hong Kong.

A Bills Committee chaired by me was formed to study the Bill. The Committee has met the Administration, the Hong Kong Bar Association and the Law Society of Hong Kong. I am grateful for the views of the two legal

professions, particularly Mr Gerard McCOY of the Bar Association for his valuable contribution to the studying of this Bill.

The Bills Committee, the Bar Association and the Law Society are gravely concerned about the proposed section 22A subsection 11. The proposed section in effect allows the person having custody of the detained person to remove the detainee from Hong Kong under the authority of an enactment or of the High Court where *habeas corpus* proceedings are underway. We object to the provision.

Firstly, only the Executive has the power to remove persons from Hong Kong. It is inappropriate to confer on the High Court the executive power to order the removal.

Secondly, it is fundamentally wrong to permit the removal of a person under the authority of an enactment when *habeas corpus* proceedings have commenced. It undermines the whole purpose of the writ, namely to have the person released if he is wrongly detained.

Once *habeas corpus* proceedings are in train, the detaining authority has no jurisdiction to remove the person from Hong Kong except with the direction of the court. We have therefore proposed to remove qualifications in a proposed section 22A subsection 11, enabling removal under the authority of an enactment or the High Court.

While agreeing to deleting the reference to the High Court, the Administration, however, does not agree to delete the provision enabling removal under the authority of enactment. The Administration takes the view that this would be a radical departure from the existing legal position under which the purpose of *habeas corpus* proceedings is to bring an illegal detention to an end, not to challenge or frustrate the removal of a detainee.

In the context of administrative detention under the Immigration Ordinance, it has been accepted that the statutory duty of the Director of Immigration is to end detention by removing from Hong Kong as soon as practicable whether or not *habeas corpus* proceedings are in train. Persons who consider that they should not be removed could apply for an interim injunction preventing removal.

The Administration is particularly concerned about the impact in respect of illegal immigrants if the Director of Immigration does not have such a removal power. The Administration is worried that the illegal immigrants and would-be illegal immigrants may take advantage of the *habeas corpus* proceedings to delay immediate repatriation or prevent removal. The Administration considers it necessary for immigration control to preserve an authority to remove a detained person even when *habeas corpus* proceedings are in train.

Mr President, the Committee agrees with the Administration that people who have no right to stay in Hong Kong should be removed. However, that removal should not be carried out without the court's permission once *habeas corpus* proceedings have commenced. At present the detaining authority can, under a number of enactments, remove persons from Hong Kong, namely the Immigration Ordinance, the Mental Health Ordinance, the Fugitive Offenders Ordinance and the Repatriation of Prisoners Overseas Territories Order 1986.

Clearly the detainees are not just illegal immigrants or Vietnamese migrants. They may be Hong Kong citizens who have the right to stay here. If the Administration is concerned that applications for the writ of *habeas corpus* will be made even when it is inappropriate to do so, the proper course to take is to assist the court to rapidly dispose of such applications. The separate proceedings for a judicial review and an injunction, as suggested by the Administration are unnecessary and undermine the precedence of *habeas corpus*.

The Committee is also unable to accept the Administration's initial proposal to limit the exception to removal from Hong Kong under an enactment to removal under the Immigration Ordinance. *Habeas Corpus* is the fundamental protection of the liberty of individuals, and that remedy should not be compromised simply because of the fear of possible abuse by illegal immigrants.

After considerable deliberations, the Administration has proposed an amendment to provide that once a writ has been issued the detaining authority is not permitted to exercise the power of removal until the writ has been discharged or the proceedings are concluded.

The Administration wishes to preserve the authority of the Director of Immigration to remove a detained person before a writ of *habeas corpus* had been issued by the court. The Bills Committee is still concerned that the detainee who

has made an application may still be spirited away without his legal representative's knowledge before the writ could be issued.

The Administration has assured us that this would not happen, that is, once an application for *habeas corpus* has been made and solicitors are acting for the applicant, the applicant will not be removed from the jurisdiction without prior notice to his solicitors. The Attorney General has agreed to give an assurance on this point when he speaks later on today. With this assurance, the Bills Committee has finally accepted the amendment as proposed by the Administration.

On proposed section 22A subsection 12, the Administration has agreed to move an amendment to provide that if a person who is formally detained on the particular ground is released upon an application for *habeas corpus*, the person shall not be re-detained on the same or similar ground unless there is material change in the circumstances justifying detention.

As regards the Bar Association's suggestion of specifying in the proposed section 22A subsection 5, a time limit of 48 hours for persons holding custody of the applicant to comply with an order for production and return, the Administration has explained that it will pose practical difficulties, particularly in mass actions involving a large number of people. It prefers to leave the matter to the discretion of the court, having regard to the circumstances of the case. As the current rules have been tested over a long period of time the Administration sees no need to change them.

When Members consider it desirable to specify a time limit of 48 hours, the Committee has agreed that the matter should be left to the discretion of the court. In view of the importance of the writ of *habeas corpus sub judicium* I should be glad if the Administration could undertake to have the relevant forms adapted for use before 1 July 1997, even if the modernization of the form's exercise could not be completed by then. Mr President, subsequently I understand that this has in fact been done and I would be grateful for the confirmation of the Attorney General later on.

With these remarks, Mr President, and subject to the amendments to be moved by the Attorney General, I commend the Bill to this Council.

Mr President, may I now add a few words of my own? I regard nothing so dear to a man as his liberty. As a lawyer there is no duty so fundamental to me as defending a person's liberty under the law. The court in our common law system has no role more sacred than this, that it protects the liberty of the subject. There is no instrument so powerful at the court's command for this purpose as the writ of *habeas corpus*. Although the first *habeas corpus* act was passed in England only in 1640, under the common law the writ pre-dated even the Magna Carta. It has therefore a very special place constitutionally. Indeed it has become the symbol of personal liberty and the release from illegal imprisonment under the rule of law. At the eve of the handover it has become of exquisite significance that we should preserve the right to obtain a writ of *habeas corpus* under the common law in Hong Kong's statute books.

We are today not just enacting a piece of legislation, we are pledging ourselves to the supremacy of the rule of law and that is why, Mr President, we cannot afford to weaken the writ of *habeas corpus*. We cannot allow any exception to the extent of its protection. If one exception is allowed today for administrative convenience, no matter how attractive and harmless it may seem at the moment, tomorrow another less attractive and less harmless exception will be made. Soon, we shall not know how to draw the line. The law as it is now admits of no exception. A Hong Kong legislation which admits of an exception simply cannot claim to preserve the common law.

That is why in the Bills Committee when the Administration insisted on such an exception together with a provision under the proposed section 22A subsection 14 that, "the right to obtain a writ of *habeas corpus* under the common law is preserved and is affected by this section only insofar as it is inconsistent with this section". It is clear to me that an attempt was being made to change, not to preserve, the common law, and that is why together with the Bills Committee's amendment to remove that exception, I propose to move an amendment to remove the words "and is affected by this section only insofar as it is inconsistent with this section". This section should not be inconsistent with the common law.

I am thankful that the Administration has changed their stance even if it was at the eleventh hour. At least the final Committee stage amendment is not a blatant transgression of the present law, and I can breathe again.

But Mr President, preserving the common law is not just preserving the letter of the law but also what the law is in practice. In practice, although a writ of *habeas corpus* is not issued, once an application is made the court will not allow the detaining authority to do anything which will preempt the court's final decision. This includes not allowing the person detained to be spirited away. The Court of Appeal in England had made clear that compulsory removal from the jurisdiction "necessarily involves some deprivation of the liberty concerned". It is therefore not at all the same thing as setting the person free.

Under present Hong Kong practice, when an application is made, the court does not usually issue the writ forthwith but sets a return date for the detaining authority to appear before the court for arguments first. So, under the Administration's earlier Committee stage amendment, the detained person can still be spirited away and so rendering the *habeas corpus* proceedings meaningless. The application could even be taken as alarm bells to hasten the detaining authority to remove the detained person from Hong Kong. A protection of the court will then be turned into a weapon of injustice.

In England, the Home Secretary assured the court that as a matter of policy a person who has applied to the court challenging the lawfulness of his detention for removal will not be removed until the proceedings have been concluded. Any process in train to remove him will be stayed until that time.

I am told that, given Hong Kong's special immigration concerns, the Administration cannot give the same policy assurance, but in my view, they can at least give the assurance that no applicant will be removed without prior notice to his legal representative. This will at least allow him to make an urgent application to the court for an injunction at that stage. Without this assurance it will simply mean that every application for a writ of *habeas corpus* in future will be accompanied by an application for an injunction or for an undertaking not to remove the detained person from Hong Kong. It will waste more court time and probably taxpayers' money in legal aid costs.

Were the Administration to refuse to give that assurance today then refusal in itself would be a strong indication of the intention to spirit away the detained person without warning.

Mr President, I am relieved that the Attorney General is prepared to give that assurance. The Committee stage amendment the Administration will move later today, together with that assurance, may respectively be said to preserve the common law. I want to thank the Attorney General for appreciating the concern of myself, the Bar and the Bills Committee.

Mr President, for these reasons I have also withdrawn the Committee stage amendment to 22A subclause 14 which I originally proposed. It would have been a matter of deep regret if I had to be at variance with the Attorney General on a matter of such constitutional importance.

Thank you, Mr President.

何俊仁議員致辭：主席，我代表民主黨發言支持這條例草案的二讀和三讀，並支持條例草案委員會和政府所提出的修正案。我們支持是基於律政司稍後會代表政府作出公開承諾，當任何申請人身保護令的程序正在進行時，政府不會在沒有事先通知當事人律師的情況下，突然將當事人遣返。

主席，其實一直以來，我相信局內很多同事已經等待了這條例草案很長時間，大家覺得這是保障人權必不可少的法例。剛才吳靄儀議員在發言時也很清楚提到這法例的悠久歷史，幾可追溯至十三世紀。事實上，法律界也有見解，就是有關人身保護令的法例其實較 100 條有關人權的法例還有效，因爲即使有保障人權的條例或宣言，但如果沒有一個有效的機制和程序，來保護人身自由和安全受到威脅的人士，則那些條文或宣言都只是空言。因此，今天我們很高興這條例草案能夠在政權移交前通過。

在審議條例草案期間，最大的爭論是當有人被拘留時，他申請人身保護令，在這段期間，政府可否將他遣返呢？我們最關心這件事，因爲在草擬這條例草案時，政府說明可以這樣做，它覺得這樣做沒有甚麼不對，因爲在香港入境的管制方面，它覺得有需要這樣做。我們十分驚訝，因爲如果政府真的這樣做，就好像它可以有計劃地利用合法或不合法手段，將一些它認爲有需要被遣返的人拘留，然後當那人合法申請人身保護令時，就立刻將他遣走。即使申請得直，那人身保護令也是沒有用的，因爲那人已被遣返。

我們真的無法接受這點，並非常驚訝政府當時給我們這樣的答案。當然，後來政府讓了步，現時願意不單止在發出人身保護令後，政府必須釋放那當事人，這是它的責任，要遵從和尊重法庭的決定；而且在知道有人申請人身保護令時，如果它有行動將當事人遣返或遣送離境，它一定要立刻通知當事人的代表律師。那位律師可以盡快向法庭申請緊急令狀，或要求法庭頒布臨時人身保護令。我覺得這是很重要的。

我想提出兩點意見，第一，政府在面對司法覆核的情況下，其實也應該有類似安排，即給受影響的當事人時間到法庭申請保障個人的法庭命令或聲明。我覺得這樣才公平。我覺得律師向法庭申請這些令狀，並不可以拖延很長時間，特別是人身保護令，因爲通常是很快、很急的。我覺得政府應該考慮在司法覆核的情況下，也可以有類似的做法，即給予當事人合理權利和機會，向法庭提出申訴。

第二，大家都知道，在申請人身保護令時，很多時候申請人都需要法律援助。我認爲日後有需要在法律援助服務方面加以改善，在緊急情況下能夠盡快批准。當然，這屬於條例草案範圍以外的事，不過，我覺得這點也是十分重要的。

總括來說，我們覺得這條例草案如獲得通過，對香港人十分重要，我們希望日後這法例能在香港繼續執行，使每個市民都能受到人身保護令這程序的充分保障。

葉國謙議員致辭：主席，香港的可貴之處，在於每個市民都能享有充分的自由，無論是言論自由或人身自由。這條《1997 年最高法院（修訂）條例草案》主要是將一六七九年及一八一六年的《英國人身保護令》納入條例之中，使有關法令可以在九七年七月一日後透過這法例來繼續人身保護令的申請，以保護人身自由。

條例草案最富爭議性的條文是第 22A(11)(b)條，即在處理一項人身保護令的申請期間，拘禁申請人的政府機關應否有權不經過法庭許可，豁免人身保護令的適用。對於這項修正，本局一些同事擔心條例草案通過後，必會削弱人身保護令的力量。

我認爲香港的情況較爲特殊，特別要考慮到在過渡期間，會受到大量非法入境者偷渡來港這問題的威脅，因此，我們必須維持有效的出入境管制，並在切實可行的範圍內，盡快將非法入境者移離本港。拘留政策的目的是防止非法入境者潛入，以及方便把他們移離本港。如果將當局把非法入境者遣離本港的權力加以限制，則會有違這個目的。如果政府不提出有關的修正，則恐怕人身保護令有可能被非法入境者所濫用，而且也擔心非法入境者可能收到錯誤信息，利用人身保護令延長在香港逗留的時間。

如果人身保護令適用於《人民入境條例》，我們實際上無法對從內地、越南和其他國家入境的人士加以管制。如果現行政策不繼續發揮有效作用，本港便可能會受到大量非法入境者湧入的問題所威脅。如果情況不受控制，我們社會和市民的安全也可能會受到影響。

目前，每天平均有大約 65 名來自內地的非法入境者被捕或被遣返，假如他們當中大部分藉申請人身保護令這法律程序，拖延被遣送的時間，政府和法庭在處理、拘留和訴訟方面，將會面對極大困難，對市民造成負擔。因此，這並不符合公眾利益，我們必須考慮這點。政府吸納了同事的意見，現時提交這條例草案和修正案，民建聯是支持的。

我謹此陳辭，支持政府的條例草案和修正案。

何俊仁議員：主席，我在聽過葉國謙議員的發言後，我不能不作出回應。雖然他最後的結論……

PRESIDENT: You are not allowed to speak for a second time. It is full Council now.

李柱銘議員致辭：何俊仁議員不能發言，便由我來說吧！

主席，我們要記着，人身保護令並不是只適用於非法入境者，其實我們每一個人也可能會用得上。如果有一天，強權者將我們趕出境，我們便要申請人身保護令，所以不一定是非法入境者才會申請。如果強權者無理地把我們趕出境，我們這些在香港出生的人也要利用這個普通法賦予我們的、可說是最寶貴的“護身符”。因此，千萬不要以爲會有人濫用。法律的原則是，即使有人濫用，即使放過了 99 個有罪的人，也總比判錯了一個無罪的人入獄

爲好。因此，我們要明白這是普通法的基本精神，而《聯合聲明》和《基本法》都載明會落實普通法。

ATTORNEY GENERAL: Mr President, on 5 March this year, I introduced the Supreme Court (Amendment) Bill 1997 into this Council. The Bill aims to amend the Supreme Court Ordinance so as to re-enact, in an updated form, those provisions of the English Habeas Corpus Acts 1679 and 1816 that are relevant to Hong Kong, and to make consequential amendments to the Application of English Law Ordinance.

Freedom of the person is a fundamental human right. Effective mechanisms have to be put in place to protect it. This is echoed in Article 9(4) of the International Covenant on Civil and Political Rights which states that "anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful." The object of the Bill is to preserve the remedy of *habeas corpus* by which such proceedings may be instituted. We believe that the protection of liberty made available by *habeas corpus* will be preserved and improved with the enactment of this important Bill.

The Bills Committee, chaired by the Honourable Miss Margaret NG, attaches great importance to the Bill and has carefully studied its provisions with expedition and care. In conjunction with the legal profession, it has proposed a number of suggestions to the Administration. Most of these suggestions are very helpful and have been accepted by us with gratitude.

As Miss Margaret NG has outlined the major proposed changes to the Bill following discussion with the Committee, there will be a number of Committee stage amendments to be moved by me at the Committee stage. For the time being, I shall only highlight the one to amend proposed section 22A (11)(b). This provision allows for the removal of the detainees from Hong Kong under the authority of an enactment or of the High Court pending *habeas corpus* proceedings. In response to the Committee's suggestions, my proposed amendment will seek to delete the reference to the High Court.

As regards the statutory exception, Miss Margaret NG, the chairman of the Committee, originally put forward a Committee stage amendment which seeks to remove the statutory exception. However, having considered the Administration's latest proposed amendment, the Committee has agreed that she should withdraw her Committee stage amendment. To address the concern of the Committee on civil liberty as far as practicable, whilst maintaining our immigration control, my proposed amendment seeks to limit the authority of the Director of Immigration after the court has issued a writ of *habeas corpus*. Whilst it preserves the Director's authority to remove a detained person before a writ of *habeas corpus* has been issued by the court, our latest proposal provides that once a writ has been issued, the Director may no longer exercise the power of removal until the writ is discharged or the proceedings are concluded. This amendment strikes the right balance between the protection of civil liberty and our immigration control. This is essential given the unique situation in Hong Kong, particularly in view of the need to guard against the threat of illegal immigration.

The proposed Committee stage amendment gives the court the opportunity to assess the strength of the applicant's case and decide whether a stay of the removal of the detained person is warranted. This would prevent unmeritorious claims being successful. It is consistent with the approach under the existing law in judicial review whereby the court may stay the Director's decision to remove upon granting of leave to judicial review if there is a *prima facie* case supporting the granting of an interim injunction. It is also consistent with the position in the United Kingdom, where the court assumes control over the custody of the detained person on the return and production of him before it as required by a writ of *habeas corpus*.

As Members have heard, both Miss Margaret NG and the Bar Association have expressed concern that a detained applicant may be removed without his legal representative's knowledge before the writ of *habeas corpus* could be issued. Members may wish to note that as a matter of practice, once an application of *habeas corpus* has been made and solicitors are acting for the applicant, the applicant will not be removed from the jurisdiction without prior notification to the solicitors. Mr President, I am extremely happy to place that practice publicly on the record in this Council tonight.

We believe that our latest proposal represents the right balance between the protection of an individual's right to apply for a writ of *habeas corpus* and the maintenance of our immigration control.

Finally, on the point concerning the forms on which Miss Margaret NG asks for my assurance, I can confirm that the forms concerned with *habeas corpus* to which she refers have indeed been modernized and I believe they were tabled in this Council last week.

Mr President, with these remarks and subject to the amendments that I shall move, I commend this important and fundamental Bill to honourable Members.

Question on the Second Reading of the Bill put and agreed to.
條例草案二讀之議題經付諸表決，並獲通過。

Bill read the Second time.
條例草案經過二讀。

Bill committed to a Committee of the whole Council pursuant to Standing Order 43(1).
依據《會議常規》第 43 條第(1)款的規定，將條例草案付委予全體委員會審議。

Committee stage of Bill
條例草案全體委員會審議階段

Council went into Committee.
本局進入全體委員會審議階段。

SUPREME COURT (AMENDMENT) BILL 1997
《1997 年最高法院（修訂）條例草案》

Clauses 1 and 2
條例草案第 1 及 2 條

ATTORNEY GENERAL: Mr Chairman, I move that clauses 1 and 2 be amended as set out in the paper circularized to Members.

Amendments to these two clauses aim to provide a Chinese version of them. Apart from that, clause 2(b) is also amended to clarify the meaning of "detention". This is a technical amendment.

Proposed amendments
擬議修正案內容

Clause 1 (See annex XIV)
條例草案第 1 條（見附件 XIV）

Clause 2 (See annex XIV)
條例草案第 2 條（見附件 XIV）

Question on the amendments put and agreed to.
修正案之議題經付諸表決，並獲通過。

Question on clauses 1 and 2, as amended, put and agreed to.
經修正的條例草案第 1 及 2 條之議題經付諸表決，並獲通過。

Clause 3
條例草案第 3 條

ATTORNEY GENERAL: Mr Chairman, I move that clause 3 be amended as set out in the paper circularized to Members.

Firstly, amendments to this clause aim to provide a Chinese version of it.

Secondly, the amendment seeks to provide in proposed section 22A(4) that unless the Court, in exceptional circumstances specified by the Court, orders otherwise, all *habeas corpus* proceedings are to be conducted in open court. It also seeks to provide that all orders and decisions made in respect of those proceedings conducted in camera, and the reasons for such orders and decisions, have to be announced in open court. This amendment is in line with our policy of open justice.

Thirdly, the amendment seeks to provide in section 22A(5) that the judge to whom an application for a writ of *habeas corpus* is made may either issue the writ forthwith or arrange for the person having the custody of the detainee to be notified of the application and be given an opportunity to justify to the Court the lawfulness of the detention. This serves to incorporate the current arrangement under Order 54, Rule 2 of the Rules of the Supreme Court in proposed section 22A(5). I put forward this amendment in response to the Bills Committee's suggestion.

Fourthly, the amendment seeks to delete the provision in the originally proposed section 22A(9) on the making of consequential orders. This amendment is also in response to the Bills Committee's suggestion.

Fifthly, the amendment seeks to rewrite proposed section 22A(10). The Administration proposes that the new section 22A(10) should expressly provide that if a person having the custody of another persons fails to satisfy the Court that the detention is lawful, the Court must order the immediate release of the person. In addition, the amendment seeks to provide in proposed section 22A(12) that a released person should not be redetained on the same or a similar ground unless there is a material change in the circumstances justifying detention. The proposed formulation of these two sections has been agreed by the Bills Committee.

Mr Chairman, as I said when moving the resumption of the Second Reading debate, in order to address the Bills Committee's concern on civil liberty as far as practically possible, we propose to delete in proposed section 22A(11) the reference to the High Court and to limit the Director's authority so that if a writ of *habeas corpus* has been issued in respect of a detained person, he may not be removed until the writ is discharged or the proceedings are concluded. The proposal gives the Court the opportunity to assess the strength of the applicant's case and to decide whether a stay of the removal of the detained person is warranted. This would prevent unmeritorious claims being successful. And perhaps if I can reemphasize the point, I will repeat the practice, the undertaking that I gave in the Second Reading debate, about notice to solicitors when it has been instructed once an application has been made.

Mr Chairman, I beg to move.

Proposed amendment
擬議修正案內容

Clause 3 (See annex XIV)
條例草案第 3 條（見附件 XIV）

9.10 pm
晚上 9 時 10 分

THE PRESIDENT'S DEPUTY, DR LEONG CHE-HUNG, took the Chair.
代理主席梁智鴻議員暫時代爲主持會議。

何俊仁議員致辭：代理主席，我想趁這機會就葉國謙議員剛才提出的人身保護令這程序會否被濫用這點，作簡短的回應，以紀錄在案。

代理主席，剛才葉議員擔心非法入境者問題可能會很嚴重，如果法例寫明申請人身保護令得直的話，便不能被遣送出境，以及律政司所作的保證，可能會令一些人濫用這項程序。

我想強調，第一，無論非法入境者問題多麼嚴重，我們應該以合法途徑解決，而不能以非法逮捕、非法拘禁來解決非法入境者這問題。我們認爲人權是很重要的，我們不能因爲他們是非法入境者，所以他們沒有權利向法庭申請人身保護令。葉議員可能未必是這意思，但問題是，無論他們是誰，如果他們被非法拘禁，他們的人身自由被非法剝奪時，他們應該有權申請人身保護令，應該得到保護。我們不能說爲了針對非法入境者問題，所以擔心這程序遭某些人濫用。我們強調的應該是法治精神。無論甚麼人也好，他們在法律之前都應享有平等權利。

事實上，申請人身保護令的時間也不會太長，即所需時間不會太長；也不是每個人都有能力聘請律師這樣做；而且也不是每個人都能夠成功申請法律援助。因此，有關濫用這問題，我相信是一個不必要的憂慮。不過，無論如何，這絕不能作爲一個藉口，鼓勵政府或人民入境事務處隨便非法逮捕任何人，或將他們遣送出境。剛才李柱銘議員也提到，政府拘捕一些人，以爲他們是非法入境者，但他們可能不是非法入境者，而是有證據證明他們有權在香港居留。如果他們沒有人身保護令這程序保護時，可能會被遣送出境，以致完全喪失留在香港的權利。

我只想將這點紀錄在案。當然，我很高興葉議員最後表示會支持這些修正。我希望葉議員再次考慮清楚這個概念。

Question on the amendment put and agreed to.
修正案之議題經付諸表決，並獲通過。

Question on clause 3, as amended, put and agreed to.
經修正的條例草案第 3 條之議題經付諸表決，並獲通過。

Clauses 4, 5 and 6
條例草案第 4、5 及 6 條

ATTORNEY GENERAL: Mr Deputy, I move that the clauses specified be amended as set out in the paper circularized to Members.

Amendments to these clauses aim to provide a Chinese version of them.

Proposed amendments
擬議修正案內容

Clause 4 (See annex XIV)
條例草案第 4 條（見附件 XIV）

Clause 5 (See annex XIV)
條例草案第 5 條（見附件 XIV）

Clause 6 (See annex XIV)
條例草案第 6 條（見附件 XIV）

Question on the amendments put and agreed to.
修正案之議題經付諸表決，並獲通過。

Question on clauses 4, 5 and 6, as amended, put and agreed to.
經修正的條例草案第 4、5 及 6 條之議題經付諸表決，並獲通過。

New clause 5A
新訂的條例草案第 5A 條

Amendment of Schedule (Writs)
修訂附表（令狀）

New clause 5B
新訂的條例草案第 5B 條

Amendment of Rules of the Supreme Court (Forms)
修訂《最高法院規則》（表格）

Clauses read the First time and ordered to be set down for Second Reading pursuant to Standing Order 46(6).
條例草案條文經過首讀，並依據《會議常規》第 46 條第(6)款的規定，受命安排二讀。

ATTORNEY GENERAL: Mr Deputy, I move that new clauses 5A and 5B as set out in the paper circularized to Members be read the Second time.

These new clauses seek to delete two obsolete writs of *habeas corpus* and repeal their two obsolete forms within the Rules of the Supreme Court.

Question on the Second Reading of the clause proposed, put and agreed to.
條例草案條文二讀之議題經提出待議，隨即付諸表決，並獲通過。

Clause read the Second time.
條例草案條文經過二讀。

ATTORNEY GENERAL: Mr Deputy, I move that new clauses 5A and 5B be added to the Bill.

Proposed additions
擬議的增補

New clause 5A (See annex XIV)
新訂的第 5A 條（見附件 XIV）

New clause 5B (See annex XIV)
新訂的第 5B 條（見附件 XIV）

9.17 pm
晚上 9 時 17 分

THE PRESIDENT resumed the Chair.
主席恢復主持會議。

Question on the addition of the new clauses proposed, put and agreed to.
增補新條文之議題經提出待議，隨即付諸表決，並獲通過。

Long title
詳題

ATTORNEY GENERAL: Mr Chairman, I move that the long title be amended as set out in the paper circularized to Members.

Proposed amendment
擬議修正案內容

Long title (See annex XIV)
詳題（見附件 XIV）

Question on the amendment put and agreed to.
修正案之議題經付諸表決，並獲通過。

Question on Long title, as amended, put and agreed to.
經修正的詳題之議題經付諸表決，並獲通過。

Council then resumed.
全體委員會隨而回復爲立法局。

Third Reading of Bill
條例草案三讀

THE ATTORNEY GENERAL reported that the
律政司報告謂：

SUPREME COURT (AMENDMENT) BILL 1997
《1997年最高法院（修訂）條例草案》

had passed through Committee with amendments. He moved the Third Reading of the Bill.
經修正後已通過全體委員會審議階段。他動議三讀上述條例草案。

Question on the Third Reading of the Bill proposed, put and agreed to.
條例草案三讀之議題經提出待議，隨即付諸表決，並獲通過。

Bill read the Third time and passed.
條例草案經三讀通過。

~~Resumption of Second Reading Debate on Bill~~
恢復條例草案二讀辯論

VETERINARY SURGEONS REGISTRATION BILL
《獸醫註冊條例草案》

Resumption of debate on Second Reading which was moved on 15 May 1996
恢復於一九九六年五月十五日動議之二讀辯論

羅致光議員致辭：主席，本人謹以《獸醫註冊條例草案》的條例草案委員會主席身分，向議員匯報條例草案委員會的商議過程，並藉此機會向曾經就本條例草案提交意見書的團體致謝，特別是向曾經與條例草案委員會會商解釋其意見的團體致謝。

本條例草案旨在設立一個獸醫註冊制度，同時亦訂定條文，對沒有保持合理專業標準的註冊獸醫施以紀律制裁。條例草案亦保障"註冊獸醫"或"registered veterinary surgeon"名銜的使用。

條例草案委員會支持制定法例，規管獸醫在香港執業的事宜，以符合動物福利、獸醫專業，以及消費者的利益。然而，在商議過程中，各委員發現~~多項政府當局應予解決的問題~~。