

立法會
Legislative Council

LC Paper No. CB(2) 236/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 6th meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 10 November 2000**

Members present :

Hon Mrs Selina CHOW LIANG Shuk-ye, JP (Chairman)
Hon Fred LI Wah-ming, JP (Deputy Chairman)
Hon Kenneth TING Woo-shou, JP
Hon James TIEN Pei-chun, JP
Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Ir Dr Hon Raymond HO Chung-tai, JP
Hon Martin LEE Chu-ming, SC, JP
Hon Eric LI Ka-cheung, JP
Dr Hon David LI Kwok-po, JP
Dr Hon LUI Ming-wah, JP
Hon NG Leung-sing
Prof Hon NG Ching-fai
Hon Margaret NG
Hon James TO Kun-sun
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching
Hon CHAN Kwok-keung
Hon CHAN Yuen-han
Hon Bernard CHAN
Hon CHAN Kam-lam
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
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, JP
Hon Howard YOUNG, JP
Dr Hon YEUNG Sum

Hon YEUNG Yiu-chung
Hon LAU Chin-shek, JP
Hon LAU Kong-wah
Hon LAU Wong-fat, GBS, JP
Hon Mrs Miriam LAU Kin-ye, JP
Hon Ambrose LAU Hon-chuen, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon LAW Chi-kwong, JP
Hon TAM Yiu-chung, GBS, JP
Dr Hon TANG Siu-tong, JP
Hon LI Fung-ying, JP
Hon Henry WU King-cheong, BBS
Hon Tommy CHEUNG Yu-yan, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip
Hon LEUNG Fu-wah, MH, JP
Hon WONG Sing-chi
Hon IP Kwok-him, JP
Hon LAU Ping-cheung

Members absent :

Hon Albert HO Chun-yan
Hon LEE Cheuk-yan
Hon LEUNG Yiu-chung
Hon Timothy FOK Tsun-ting, SBS, JP
Hon Abraham SHEK Lai-him, JP
Dr Hon LO Wing-lok
Hon Frederick FUNG Kin-kee

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
Mr Stephen LAM	Senior Assistant Legal Adviser (Acting)

Ms Pauline NG	Assistant Secretary General 1
Mr Ray CHAN	Assistant Secretary General 3
Miss Anita HO	Assistant Legal Adviser 2
Mr KAU Kin-wah	Assistant Legal Adviser 6
Mrs Vivian KAM	Chief Assistant Secretary (Complaints)
Miss Kathleen LAU	Chief Public Information Officer
Mrs Constance LI	Chief Assistant Secretary (2)5
Mrs Betty LEUNG	Chief Assistant Secretary (3)1
Miss Betty MA	Senior Assistant Secretary (2)1

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I. Confirmation of the minutes of the 5th meeting held on 3 November 2000

(LC Paper No. CB(2) 191/00-01)

The minutes were confirmed.

II. Matters arising

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

2. The Chairman said that the Chief Executive (CE) had not yet replied whether he would give a briefing to Members on his recent visits to Beijing and London, and that she had requested Acting (Ag) CS to assist in the matter. The Chairman added that she had also relayed to Ag CS Members' proposal that the briefing should take the form of a CE's Question and Answer Session.

3. Regarding the request of the Panel on Constitutional Affairs for information on the arrangements for the CE election, the Chairman said that Ag CS had promised to provide as much information as possible at the next meeting of the Panel on 20 November 2000. The Chairman further said that Ag CS had clarified that it was necessary for the Executive Council to decide on some points of principle before the Legislative Council (LegCo) was consulted. Ag CS had indicated that the Administration would be able to provide information in two to three weeks' time.

III. Business arising from previous Council meetings

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

(i) **Adaptation of Laws Bill 2000**
(LC Paper No. LS 18/00-01)

4. Introducing the report, the Legal Adviser said that the Bill sought to adapt the Private Bills Ordinance, the Legislative Council (Powers and Privileges) Ordinance and its subsidiary legislation, and The Legislative Council Commission Ordinance to bring them into conformity with the Basic Law and with the status of Hong Kong as a Special Administrative Region (SAR) of the People's Republic of China.

5. Miss Margaret NG said that a Bills Committee should be formed to study the Bill. She also asked whether the guiding principles applied in previous Adaptation of Laws Bills were also applicable to this Bill. The Legal Adviser replied that the same guiding principles applied, and that any amendment that was not for the purpose of "adaptation" necessitated by Hong Kong's status as an SAR would be outside the scope of the Adaptation of Laws Programme.

6. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr Martin LEE, Miss Margaret NG, Mr Andrew WONG, Mrs Miriam LAU and Miss Emily LAU.

(ii) **Dutiable Commodities (Amendment) Bill 2000**
(LC Paper No. LS 12/00-01)

7. Referring to the report, the Legal Adviser explained that the Bill was to add a presumption provision that any light diesel oil found in the fuel tank of a motor vehicle with a sulphur content in excess of 0.05% by weight was dutiable goods. The Legal Adviser said that the provision had been introduced into the former LegCo as part of the Dutiable Commodities (Amendment) Bill 1999. As the Bills Committee formed to study the Bill considered that the Administration should first consult the transport trade, the provision had been deleted at the Committee stage. The provision was now re-introduced after consultation with the trade.

8. The Legal Adviser further said that as it was reported in a newspaper that the Chairman of the Hong Kong Bar Association was of the view that the presumption provision might be inconsistent with the Hong Kong Bill of Rights Ordinance, the Legal Service Division had

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written to the Chairman of the Bar Association to see if he would express his view in writing to Members.

9. Mr Andrew CHENG said that a Bill Committee should be formed as it was necessary to examine the Administration's rationale for the presumption provision. Miss Emily LAU concurred.

10. The Chairman proposed that a Bills Committee be formed. Members agreed. The following Members agreed to join : Mr James TO, Mr Andrew WONG, Mrs Miriam LAU, Miss Emily LAU and Mr Andrew CHENG.

(b) **Legal Service Division's report on subsidiary legislation tabled in Council on 8 November 2000 (gazetted on 3 November 2000)**
(LC Paper No. LS 17/00-01)

11. The Legal Adviser said that seven items of subsidiary legislation, including two commencement notices, were gazetted on 3 November 2000. The Legal Adviser explained that the Control of Obscene and Indecent Articles (Amendment) Regulation 2000 sought to revise various fees payable under the Control of Obscene and Indecent Articles Ordinance. The proposed fees would come into effect on 15 December 2000. As regards the Public Health and Municipal Services (Fees and Charges) (Museums) Regulation, the Legal Adviser advised that the Regulation prescribed the admission fees payable for the Hong Kong Heritage Museum and the fees and charges payable for a museum pass.

12. On the Road Traffic (Village Vehicles) (Amendment) Regulation 2000, the Legal Adviser said that it sought to include the specified roads in Discovery Bay in the definition of restricted roads, and that a valid driving licence would be required for driving golf carts in Discovery Bay. In reply to Mr James TIEN, the Legal Adviser clarified that a golf course was not within the meaning of restricted roads. The Legal Adviser added that according to the LegCo Brief on the Amendment Regulation, the legislative proposal had the unanimous support of the Traffic and Transport Committee of the Island District Council, the Area Committee of Peng Chau and Discovery Bay as well as the Owners Committees and Management Company of Discovery Bay.

13. Members did not raise further queries on the subsidiary legislation.

14. The Legal Adviser said that the deadline for amending the subsidiary legislation was 6 December 2000, or 13 December 2000 if extended by resolution.

IV. Further business for the Council meeting on 15 November 2000

Questions

(LC Paper No. CB(3) 129/00-01)

15. The Chairman informed Members that Mr LAU Kong-wah had revised the wording of his oral question and Dr LUI Ming-wah had withdrawn his written question.

V. Business for the Council meeting on 22 November 2000

(a) Questions

(LC Paper No. CB(3) 130/00-01)

16. The Chairman said that a total of 20 questions (six oral and 14 written) had been scheduled.

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

Gambling (Amendment) Bill 2000

17. The Chairman said that the above Bill would be introduced into the Council on 22 November 2000 and considered by the House Committee on 24 November 2000.

(c) Government motion

Motion to be moved by the Secretary for Security

18. The Chairman said that the Secretary for Security (S for S) had given notice to move a motion on the Public Order Ordinance and the wording of the motion had been circulated to Members. She also referred Members to Mr James TO's letter of 9 November 2000 tabled at the meeting and invited Mr TO to speak.

19. Mr James TO said that he was not against the idea of having a motion debate on the Public Order Ordinance but he considered it premature for the debate to take place on 22 November 2000. He informed Members that prior to the Administration giving notice of the motion on 7 November 2000, the Panel on Security had already invited the Administration to discuss the enforcement and review of the Public Order Ordinance at the meeting of the Panel on 7 December 2000. He pointed out that S for S had agreed to attend a public forum organized by Radio Television Hong Kong to discuss the Public Order Ordinance on 11 November 2000 which would also be attended by representatives of the

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Federation of Students. He added that some concerned organizations would also meet S for S on 25 November 2000 to submit their views and proposals on the Ordinance. Mr TO considered that the Administration should not push for a debate in the Council before listening to the views of the community and the Panel.

20. Mr James TO proposed that the House Committee should request the Administration to defer the motion debate until after the Panel had completed its deliberations. Mr TO further proposed that, if the Administration did not agree to defer the motion debate, it should at least revise the wording of the motion by couching it in more neutral terms to enable different views to be expressed at the debate.

21. The Chairman invited Members to consider Mr James TO's proposal that the motion debate should be deferred. She reminded Members not to discuss S for S's motion per se.

22. Mr Martin LEE and Dr YEUNG Sum expressed support for Mr TO's proposal. DR YEUNG Sum said that in her speech made at the debate on the Motion of Thanks at the Council meeting on 1 November 2000, CS had undertaken to work at further strengthening the communication and cooperation between the Administration and LegCo. He added that CS had also proposed to explore ways to better utilize the Panel system of LegCo to deliberate the Administration's legislative and policy initiatives. Dr YEUNG pointed out that to push ahead with the motion debate was contrary to what CS had said. He urged the Administration to respect the operation of Panels and not to pre-empt the discussion of the Public Order Ordinance by the Panel on Security.

23. Mr Martin LEE said that it was most extraordinary for the Administration to initiate such a debate to affirm the public procession requirements under the Public Order Ordinance. He wondered whether the Administration would do the same in respect of all legislation.

24. Miss Margaret NG stressed that for any debate to be meaningful, the views expressed should be considered and informed. She pointed out that the Administration had provided only scanty information, in the form of a brief summary, on the public procession requirements in 22 overseas countries. She said that more detailed information, such as the text of the relevant legislation, was necessary to enable Members to assess whether the Administration had struck a proper balance in the public procession requirements. Miss NG added that it would be for the Administration to consider whether to postpone the motion debate if it had difficulty in providing such information before 22 November 2000.

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25. Prof NG Ching-fai was of the view that LegCo was ready for a debate on S for S's motion on the Public Order Ordinance as many Members had already given their views in public. He hoped that the debate could help put an end to recent disputes over public procession requirements and discourage people, particularly Members of the Council, from defying the requirements.

26. Mr NG Leung-sing agreed that it was not necessary for the Administration to defer the motion debate. He said that there was already sufficient information on the subject matter. He pointed out that records on the deliberations of the Public Order (Amendment) Bill 1997 which was passed by the Provisional Legislative Council in 1997 were available. He added that if Members required further information on overseas legislation, they should have no difficulty in obtaining it from the Administration or other sources. Mr NG further suggested that if the Panel on Security wished to gauge public views or hold discussion with the Administration before the debate, the Panel could consider advancing its meeting scheduled for 7 December 2000 to an earlier date.

27. Mr CHAN Kam-lam concurred with Mr NG Leung-sing. He said that both the Provisional Legislative Council and the community had sufficient discussion on the Public Order Ordinance. He expressed support for the motion debate to take place on 22 November 2000. He also hoped the debate could clear up doubts regarding the regulation of public meetings and public processions.

28. Dr YEUNG Sum was of the view that the motion debate would not put an end to disputes over the public procession requirements as some people considered such requirements to be in breach of the Basic Law. These people regarded incidents of non-compliance with the requirements to be acts of civil disobedience.

29. Mr James TO stressed that as a matter of courtesy as well as a gesture of cooperation, the Administration should defer the motion debate to a later date. He pointed out that when the Panel on Security decided in October 2000 to discuss the Public Order Ordinance at its meeting on 7 December 2000, the Administration had been consulted. The Administration could have alerted the Panel of its plan for a motion debate to take place on 22 November 2000 and asked the Panel to advance its discussion. Mr TO added that the Administration's move was too sudden and smacked of disrespect for the Panel.

30. Mr Eric LI said that it would be for the Administration to decide whether or not the motion debate should be deferred. However, Mr LI pointed out that the Administration's present move would have an adverse impact on the relationship between the Executive and the Legislature.

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31. Miss Emily LAU expressed support for Mr James TO's proposal. She said that the Frontier had written to S for S requesting her to listen to public views before initiating a motion debate. Miss LAU added that the Administration's move would give the public the impression that it did not want to listen to their views on the issue.

32. Mr Eric LI and Mr James TIEN said that it would be fair to allow reasonable time for the Panel to deliberate on the issue and listen to the views of the concern groups before Members debated the motion in Council. They suggested that the Panel on Security should consider advancing its meeting scheduled for 7 December 2000 to an earlier date.

33. Mr LAU Kong-wah, Chairman of the Panel on Security, responded that he was agreeable to advance the Panel meeting if the House Committee so recommended. Mr James TO said that there could only be preliminary discussion on the issue at the meeting on 7 December 2000 as the Panel had other agenda items to deal with on that day. He expected that further meetings would be required for holding public hearings. He pointed out that deputations should be given sufficient time to prepare their submissions. He estimated that the Panel would not be able to conclude its deliberations on the issue until February or March 2001.

34. Mr IP Kwok-him opined that as the Public Order Ordinance had given rise to much public discussion, it was appropriate for the Administration to initiate a debate to seek LegCo's affirmation of the public procession requirements. He considered it acceptable for the debate on S for S's motion to take place on 22 November 2000. He said that the Panel could continue its discussion on the matter after the motion debate. Mr IP added that the Administration had the right to propose the motion under the Rules of Procedure.

35. Mr Eric LI asked whether S for S's motion had any legislative effect if passed by the Council, and whether a Member could move a motion, in similar terms to S for S's motion, for debate within the same legislative session.

36. Mr Andrew WONG also asked whether the Panel on Security could move another motion on the Public Order Ordinance after its deliberations, if S for S's motion was carried in Council on 22 November 2000.

37. The Legal Adviser said that S for S's motion did not have any legislative effect. He further explained that under Rule 32(1) of the Rules of Procedures, where the Council had taken a decision on a specific question and the question had been decided in the affirmative, no further motion could be moved in relation to that question during the same

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session, except a motion to rescind the decision, moved with the permission of the President.

38. In reply to Miss Emily LAU, the Secretary General explained that Rule 31(2) was not applicable to the situation where the subject matter of a motion not intended to have legislative effect was being considered by a Panel.

39. Mr James TIEN asked whether under Rule 32, a Member's Bill on a particular subject matter could be presented to the Council in the same session after a motion on the same subject matter had been carried by the Council. The Legal Adviser said that Rule 32 only applied to motions. He further explained that a Members' Bill had to comply with the requirements in Rule 51 of the Rules of Procedure before it could be introduced into the Council.

40. Mr James TO said that it was unlikely that a Member's bill to amend the Public Order Ordinance could be successfully introduced into the Council given the current constraints in the Basic Law and the Rules of Procedure. He further said that such a bill would likely be considered to be related to Government policies. Even assuming that CE's consent could be obtained for the bill's introduction, the process would take time as the Member-in-charge had to obtain the Law Draftsman's certificate, consult the relevant Panel, and seek the President's permission to introduce the bill.

41. The Chairman ordered a vote be taken on James TO's motion "that S for S be requested to defer the motion debate on the Public Order Ordinance". Miss Emily LAU said that she would like to propose that the debate should be deferred for one month.

42. The Chairman responded that Members should first vote on Mr James TO's motion and Miss Emily LAU's request would be dealt with afterwards. She then put Mr TO's motion to vote. The result was 15 Members voted for the proposal, 27 Members voted against the proposal and three Members abstained from voting. Miss Margaret NG requested that the minutes should record that she was one of the Members who abstained.

43. The Chairman advised that as the House Committee decided not to ask S for S to defer the motion debate, it was not necessary to deal with Miss LAU's proposal.

44. Miss Emily LAU said that her proposal was in fact intended to be an amendment to Mr James TO's motion. She asked whether she could move another motion "that S for S be requested to defer the motion debate

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on the Public Order Ordinance to the last Council meeting in December 2000".

45. The Secretary General advised that the House Committee would have to first rescind its decision on Mr James TO's motion before Miss Emily LAU's proposal could be voted on.

46. Mrs Miriam LAU proposed that the decision on Mr James TO's motion be rescinded. Miss Emily LAU expressed support for Mrs LAU's proposal. The Chairman invited members to vote on Mrs Miriam LAU's proposal. The result was 21 Members voted for the proposal and 19 Members voted against the proposal. The Chairman declared that the previous decision on Mr James TO's motion was rescinded.

47. The Chairman then invited Members to vote on Miss Emily LAU proposal in paragraph 44 above. The result was 23 Members voted for the proposal, 18 Members voted against the proposal and two Members abstained from voting. Miss Margaret NG requested that the minutes should record that she was one of the Members who abstained.

48. The Chairman said that she would relay to CS Members' request that S for S should defer the motion debate on the Public Order Ordinance to the last Council meeting in December 2000.

(d) Members' motions

(i) Resolution under Rule 78(1) of the Rules of Procedure of the Legislative Council of the Hong Kong Special Administrative Region - to be moved by Hon Martin LEE Chu-ming

49. The Chairman said that Mr Martin LEE would move a motion on the setting up of a select committee to inquire into the "opinion poll incident" and related matters at the Council meeting on 22 November 2000. She said that the wording of the motion had been circulated to Members. She also reminded Members that the speaking time limit was not more than 15 minutes for each Member.

(ii) Motion on "Increasing the support to District Council members"

50. The Chairman said that the wording of Mr IP Kwok-him's motion had been circulated to Members. She added that the deadline for giving notice to amend the motion was 15 November 2000. She further suggested and Members agreed that the speaking time limits stipulated in rule 17 (c) of the House Rules should apply.

VI. Advance information on business for the Council meeting on 29 November 2000

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

(i) Banking (Amendment) Bill 2000

(ii) Securities and Futures Bill

51. The Chairman said that the above two Bills would be introduced into the Council on 29 November 2000.

(b) Members' motions

(i) Motion to be moved by Hon WONG Sing-chi

52. The Chairman said that Mr WONG Sing-chi had been allocated a debate slot.

(ii) Motion to be moved by Hon CHAN Kam-lam

53. The Chairman said that Mr CHAN Kam-lam had been allocated a debate slot.

54. The Chairman reminded Members that the respective deadlines for notice of motion and amendments, if any, were 14 November and 22 November 2000.

VII. Bills Committee and subcommittee report

Position report on Bills Committees/subcommittees

(LC Paper No. CB(2) 196/00-01)

55. The Chairman said that there were six Bills Committees and three subcommittees in action.

VIII. Proposed arrangements for meetings between Legislative Council Members and Heung Yee Kuk Councillors

(LC Paper No. CB(2) 199/00-01)

56. The Chairman referred Members to paragraphs 4 and 5 of the paper and sought Members' agreement to the proposed arrangements for

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meetings between LegCo Members and Heung Yee Kuk Councillors. She added that she and the Deputy Chairman had discussed the proposed arrangements with Mr LAU Wong-fat, Chairman of Heung Yee Kuk.

57. Members agreed to the proposed arrangements.

IX. Any other business

Rescheduling of meeting

58. The Chairman said that some Members had indicated that they would not be in Hong Kong around 22 December 2000. She invited Members to consider whether the House Committee meeting on 22 December 2000 should be rescheduled to 5 January 2001.

59. Miss Margaret NG suggested that a circular be issued to ask Members to indicate their preference to facilitate a decision to be taken at the next House Committee meeting on 17 November 2000. Members agreed.

Nomination of LegCo Members to serve on The English School Foundation

60. Mr TSANG Yok-sing informed Members that he had conveyed to The English School Foundation (ESF) the House Committee's request that the ESF Regulations be reviewed to specify that elected members should be deemed to have resigned if they ceased to be members of the body which had elected them. He said that ESF was of the understanding that its Regulations required serving LegCo Members to be nominated to the Foundation, and that it would write to LegCo on the matter.

61. There being no further business, the meeting ended at 4:40 pm.

Legislative Council Secretariat
15 November 2000