

立法會
Legislative Council

LC Paper No. CB(2) 1166/00-01

Ref : CB2/H/5

House Committee of the Legislative Council

**Minutes of the 22nd meeting
held in the Legislative Council Chamber
at 2:30 pm on Friday, 23 March 2001**

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 Cyd HO Sau-lan
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
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 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 Ambrose LAU Hon-chuen, JP
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk
Hon Andrew CHENG Kar-foo
Hon SZETO Wah
Hon Timothy FOK Tsun-ting, SBS, JP
Hon LAW Chi-kwong, 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
Hon Tommy CHEUNG Yu-yan, JP
Hon LEUNG Fu-wah, MH, JP
Dr Hon LO Wing-lok
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 :

Hon David CHU Yu-lin
Hon Albert HO Chun-yan
Dr Hon David LI Kwok-po, JP
Hon LEUNG Yiu-chung
Hon WONG Yung-kan
Hon Mrs Miriam LAU Kin-yee, JP
Hon Michael MAK Kwok-fung
Hon Albert CHAN Wai-yip

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 LEE Yu-sung	Senior Assistant Legal Adviser

Ms Pauline NG	Assistant Secretary General 1
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 21st meeting held on 16 March 2001

(LC Paper No. CB(2) 1118/00-01)

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 she had written to Mr Donald TSANG, CS (Designate) and Mr Antony LEUNG, Financial Secretary (Designate), inviting them to separately attend a meeting of the House Committee after they had assumed their new positions. She added that their respective replies were awaited.

III. Business for the Council meeting on 4 April 2001

(a) Questions

(LC Paper No. CB(3) 519/00-01)

3. The Chairman said that 20 written questions had been scheduled.

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

(i) Attachment of Income Order (Amendment) Bill 2001

(ii) Banking (Amendment) Bill 2001

4. The Chairman said that the above two Bills would be introduced into the Council on 4 April 2001 and considered by the House Committee on 20 April 2001.

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

- (i) **Appropriation Bill 2001
(Response from the Administration)**
- (ii) **Hong Kong Science and Technology Parks Corporation Bill**
- (iii) **Interest Rates (Miscellaneous Amendments) Bill 2001**
- (iv) **Employment (Amendment) (No. 2) Bill 2000**
- (v) **Education (Amendment) Bill 2000**
- (vi) **Merchant Shipping (Registration) (Amendment) Bill 2001**

5. The Chairman said that Members did not raise objection to the resumption of the Second Reading debate on these Bills at previous meetings.

IV. Bills Committee and subcommittee reports

(a) **Position report on Bills Committees/subcommittees**
(LC Paper No. CB(2) 1130/00-01)

6. The Chairman said that there were 14 Bills Committees and five subcommittees in action.

(b) **Report of the Bills Committee on Drug Dependent Persons Treatment and Rehabilitation Centres (Licensing) Bill**
(LC Paper No. CB(2) 1077/00-01)

7. Ms Cyd HO, Chairman of the Bills Committee, introduced the report which detailed the Bills Committee's deliberations on the Bill. Ms Cyd HO explained that the Bill sought to establish a licensing scheme for treatment centres providing residential accommodation for the treatment and rehabilitation of drug dependent persons who underwent such treatment and rehabilitation voluntarily.

8. Ms Cyd HO said that the Bills Committee had sought the views of the Hong Kong Bar Association and the Law Society of Hong Kong as to whether the proposed security arrangement for these treatment centres would contravene the Basic Law and the International Covenant on Civil

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and Political Rights. The Bills Committee was satisfied that the arrangement was in order. Some Bills Committee members had also expressed concern whether resource assistance would be provided to these centres to help them comply with the licensing requirements. The Administration had responded that a number of charitable funds would provide financial assistance to these centres for the necessary upgrading works. As regards the protection of the personal data of persons undergoing treatment, Ms HO said that the Administration had assured the Bills Committee that the personal data of persons undergoing treatment would be protected under the Bill and the Personal Data (Privacy) Ordinance.

9. Ms Cyd HO added that the Bills Committee was also worried that the requirement for the Director of Social Welfare (DSW) to deliver to the Police books and documents of a centre for the purposes of prosecution would compromise residents' privacy and disrupt their rehabilitation process. In response, the Administration had agreed to move an amendment to the effect that DSW would take up all matters relating to the prosecution of any offence under the Bill.

10. Ms HO further said that members had also expressed concern about the possible use of "public interest" to override the suspension of DSW's decision under the appeal procedure and the meaning and scope of "public interest". In this connection, the Administration had agreed to move an amendment to require DSW to specify in the notice of suspension the reason for his/her decision.

11. Ms Cyd HO informed Members that the Bills Committee supported the Bill and the Committee Stage Amendments to be moved by the Administration. The Bills Committee also recommended resumption of Second Reading debate on the Bill on 25 April 2001.

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

V. Proposed arrangements for valedictory to Mrs Anson CHAN, Chief Secretary for Administration

(Hon LAU Chin-shek's letter of 19 March 2001 to Chairman of the House Committee)

13. The Chairman said that at the last meeting, Mr LAU Chin-shek had proposed that the Chairman of the House Committee should move a motion, on behalf of Members, to bid farewell to CS at the Council meeting on 25 April 2001. Members had agreed to further consider the

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matter at this meeting. The Chairman added that Mr LAU had provided a letter setting out his proposal and the draft wording of the motion.

14. Referring to his letter dated 19 March 2001, Mr LAU Chin-shek said that Mrs Anson CHAN, CS, would be retiring at the end of April 2001. The proposed motion aimed to bid farewell to Mrs CHAN and also to thank her for the contribution she had made in her over 30 years of service and in leading the civil service through the transition before and after July 1997.

15. Dr YEUNG Sum said that Members belonging to the Democratic Party supported Mr LAU's proposal. He considered that it would be appropriate for the Chairman of the House Committee to move the proposed motion, which was couched in neutral terms, to bid farewell to CS. He added that Members could speak freely on the motion.

16. Mr TSANG Yok-sing said that while he had no objection to extending farewell wishes to Mrs Anson CHAN, he had reservations about holding a motion debate for the purpose. He pointed out that this Council and the former LegCo did not have the practice of moving "valedictory motions" to bid farewell to principal officials upon their retirement. Members would need to consider whether "valedictory motions" would also be moved to bid farewell to other principal officials upon their retirement or leaving their office. Mr TSANG expressed concern that a debate on a "valedictory motion" might turn out to be "an appraisal" of the performance of the official concerned and this would be contrary to the intention of the motion. He added that he would prefer using more informal channels to bid CS farewell, such as holding a farewell party or dinner.

17. Mr Andrew WONG said that although he supported that there should be arrangements for valedictory to Mrs Anson CHAN, he did not agree that it should take the form of a motion debate. He was of the view that "valedictory speeches" could be regarded as a form of "ceremonial speeches" under Rule 18(1)(b) of the Rules of Procedure.

18. The Secretary General responded that "ceremonial speeches" were not meant to include "valedictory speeches". This was reflected by the fact that two separate provisions, one for "obituary and other ceremonial speeches" and one for "valedictory speeches", were added to the Standing Orders of the former Council at the same time in 1991 (L.N. 258 of 1991). He added that as he had explained at the last meeting, the provision for valedictory speeches was deleted from the Standing Orders in 1995, as there were no longer ex-officio and Official Members in the Council, as from the 1995-97 term.

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19. The Chairman said that there was currently no provision for "valedictory speeches" in the Rules of Procedure. She proposed that Mr Andrew WONG's suggestion that "valedictory speeches" should be regarded as a form of "ceremonial speeches" under Rule 18(1)(b) of the Rules of Procedure should be pursued by the Committee on Rules of Procedure. Members agreed.

20. Mr NG Leung-sing said that while he shared Mr LAU's views that Mrs Anson CHAN had made much contribution in her over 30 years of service and in leading the civil service through Hong Kong's transition, the crux of the matter was whether the proposed valedictory to Mrs CHAN should take the form of a motion debate. He considered that Members should have regard to the fact that any form of valedictory adopted on this occasion would become the precedent for future valedictory arrangements for other principal officials on their retirement. Mr NG pointed out that as slots for Members' motion debates at Council meetings were limited, Members would need to carefully balance the need for debates on "valedictory motions" with that for debates on subject matters of public interest.

21. Mr LAU Ping-cheung said that he had no strong views on Mr LAU Chin-shek's proposed motion to bid CS farewell. However, he shared the concern that a motion would not achieve its well-intended purpose if some Members chose to criticise CS during the motion debate. He therefore preferred other options, such as holding a farewell dinner.

22. Mr CHAN Kam-lam was of the view that it was unavoidable that some Members might make comments or judgements about the achievements as well as mistakes of the official concerned during a "valedictory motion" debate, if such a debate was to be held. Mr CHAN further said that the Council did not have the practice of moving "valedictory motions" to bid farewell to principal officials on their retirement. If an individual Member wished to move such a motion, it would be up to the Member to decide. He considered that the Chairman of the House Committee should not move such a motion.

23. Mr Ambrose LAU and Mr Henry WU said that the wording of the proposed motion was not entirely neutral as the meaning of the term "惜別" was "to part reluctantly". They were also concerned that some Members might make criticisms on Mrs CHAN's performance during the proposed motion debate. They therefore had reservations about Mr LAU Chin-shek's proposal. Mr Ambrose LAU added that Members might wish to consider other options, such as organising a farewell dinner, instead of holding a motion debate.

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24. Ms Audrey EU said that any Member had the right to give notice to move a motion and also to express their views during a motion debate. She disagreed with some Members that the possibility of having diverse views or criticisms made during the motion debate proposed by Mr LAU Chin-shek should be a consideration for whether or not the debate should be held. As regards the question of whether the proposed motion debate to bid CS farewell would set a precedent, Ms EU said that arrangements for valedictory to other principal officials on their retirement should be considered by the House Committee on a case by case basis.

25. Mr TSANG Yok-sing said that while any Member could give notice to move a motion, a motion moved by the Chairman of the House Committee on behalf of the House Committee had special meaning and significance. It was therefore necessary for Members to consider whether the motion debate proposed by Mr LAU was the best option to achieve the intended objective.

26. Mr James TIEN said that Members belonging to the Liberal Party were in support of Mr LAU's proposal that the Chairman of the House Committee should move a motion to bid farewell to Mrs Anson CHAN. He further said that the case of Mrs CHAN was very special in that she had a very long service and she had also led the civil service through the transition before and after 1997. There would probably not be another civil servant whose career could compare to that of Mrs CHAN. He added that the House Committee should consider future requests for valedictory to other principal officials on a case by case basis.

27. Miss Margaret NG agreed with Mr TIEN and Ms EU that future requests for holding debates on "valedictory motions" should be considered by the House Committee on the merits of each case. She said that she would support moving a "valedictory motion" to bid farewell to Mrs Anson CHAN and any one of her successors because the office of CS had a special relationship with the House Committee.

28. Mr LAU Kong-wah said that if a "valedictory motion" debate should be held for Mrs CHAN because of her long service and contribution during the transition period before and after 1997, then a number of other principal officials would also meet these criteria. He further said that the House Committee should not consider arrangements for valedictory to principal officials on a case by case basis. He was of the view that if there was need for a procedure on valedictory arrangements, then the House Committee should consider what the procedure should be so that it would be applied to this and future occasions.

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29. The Chairman said that if a motion was to be moved by the Chairman of the House Committee on behalf of Members, it would have to be discussed and agreed to by the House Committee first. As regards the need for a procedure on valedictory arrangements, she proposed that the matter be referred to the Committee on Rules of Procedure for consideration. Members agreed.

30. Prof NG Ching-fai said that he would not support Mr LAU's proposal as holding a motion debate to bid CS farewell was not appropriate. He further queried whether CS would welcome such a motion debate. The Chairman informed Members that she had raised Mr LAU Chin-shek's proposal with CS at their meeting on the previous Monday and CS had not raised any objection.

31. Mr IP Kwok-him sought clarification as to whether Members were expected to take a decision on Mr LAU's proposal on the understanding that no amendments would be moved to the motion, if it was agreed that the motion would be moved by the Chairman of the House Committee at the Council meeting on 25 April 2001.

32. The Chairman said that in line with past practice, amendments would not be made to those motions moved by the Chairman of the House Committee on behalf of Members, such as the motion on "Consultation Document on Health Care Reform" moved at the Council meeting on 7 March 2001. The Chairman added that the practice was a "gentlemen's agreement" among Members.

33. Mr TSANG Yok-sing said that unless Members had a consensus on the wording of a motion which would be moved by the Chairman of the House Committee, he would not agree that the "gentlemen's agreement" of not moving amendments should automatically apply. He further said that the House Committee should discuss and take a conscious decision as to whether or not amendments should not be made to a particular motion which would be moved by the Chairman of the House Committee on a case by case basis.

34. Mr CHAN Kam-lam pointed out that under rule 19A(a) of the House Rules, Members could give notice of amendments to a motion subject to the notice requirements given in the Rules of Procedure. He therefore considered that the House Committee should not make a decision which would deprive a Member of his/her right to move amendments to motions. He added that amendments had been made to the Motion of Thanks which was moved by the Chairman of the House Committee.

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35. Dr Philip WONG said that although he had no intention of moving amendments to the motion proposed by Mr LAU Chin-shek, he agreed with Mr CHAN that it would be unreasonable for the House Committee to impose a restriction to deprive Members of their right to move amendments to motions.

36. Mr Fred LI said that a Member could also make criticisms or adverse remarks in a "valedictory speech", even if such speeches were permitted under the Rules of Procedure. He reminded Members that it was a "tradition" or "gentlemen's agreement" that Members would not propose amendments to a motion to be moved by the Chairman of the House Committee, on behalf of Members. He added that such a motion was always couched in neutral terms to enable Members to give views on a subject matter freely. Mr Fred LI was of the view that in an extreme case, a Member could choose not to follow a "gentlemen's agreement" or even the House Rules which were not binding.

37. Referring to Mr Fred LI's remarks, Mr CHAN Kam-lam and Mr LEUNG Fu-wah sought clarification on whether or not the House Rules were binding. The Secretary General said that Article 75 of the Basic Law stipulated that "the rules of procedure of the Legislative Council" should be made by the Council on its own, provided that such rules did not contravene the Basic Law. He added that unlike the Rules of Procedure which were made by resolution of the Council, the House Rules were made by the House Committee.

38. The Legal Adviser explained that Rule 75(18) of the Rules of Procedure provided that, subject to the Rules of Procedure, the practice and procedure of the House Committee should be determined by itself. The Legal Adviser said that for those provisions in the House Rules which reflected the effect of the Rules of Procedure, they had binding effect. The Legal Adviser added that there were also provisions in the House Rules which had been made to facilitate the implementation of the Rules of Procedure, such as the queuing systems for motions and questions. Members were expected to follow these rules, although there were no express sanctions against non-compliance.

39. Mr Frederick FUNG said that a "gentlemen's agreement" would only exist if all parties concerned consented to it. He expressed objection that a "tradition" or "gentlemen's agreement" should be a reason to prevent Members from exercising their rights, including freedom of expression and the right to move amendments to motions. He considered that it would be inappropriate for the House Committee to impose a condition on Members that no amendments should be made to the motion proposed by Mr LAU Chin-shek.

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40. Mr James TIEN said that as a number of Members had expressed dissenting views on the motion proposed by Mr LAU, he agreed that there would be problems if Members were asked not to move amendments to the motion. Miss Emily LAU agreed with Mr TIEN that the House Committee should consider whether the "no amendments" arrangement should apply on a case by case basis and in the absence of any dissenting views.

41. Mr Martin LEE and Dr YEUNG Sum agreed that as Members had the right to move amendments to a motion under the Rules of Procedure, the "gentlemen's agreement" not to move amendments should only apply if Members had a consensus on a motion.

42. Mr Eric LI said that he and seven other Members who had no declared political affiliation had no strong views on the "valedictory motion" proposed by Mr LAU. However, they considered that it would not be appropriate for the Chairman of the House Committee to move the proposed motion which was rather controversial. They also disagreed that Members could not move amendments to the proposed motion.

43. At the request of Mr Eric LI, the Chairman ordered that the meeting be suspended for ten minutes before a vote was taken on Mr LAU's proposal.

[The meeting was suspended for ten minutes and resumed at 4:00 pm.]

44. The Chairman ordered a vote be taken on Mr LAU's proposal that the Chairman of the House Committee should move the motion "that this Council bids farewell to Mrs Anson CHAN, Chief Secretary for Administration" at the Council meeting on 25 April 2001. The result was that 22 Members voted for the proposal and 23 Members voted against the proposal. Mr Andrew WONG said that he did not take part in the voting.

VI. Any other business

Consultation with Panel on Manpower on "Admission of Mainland Professionals Scheme"

(Hon LAU Chin-shek's letter of 20 March 2001 to Chairman of the House Committee)

45. Referring to his letter of 20 March 2001, Mr LAU Chin-shek, Chairman of the Panel on Manpower, said that the Panel had expressed concern that as the "Admission of Mainland Professionals Scheme" raised very important policy issues relating to manpower resources, the Panel

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should have been consulted before the Financial Secretary (FS) announced the Scheme when delivering his Budget Speech on 7 March 2001. Mr LAU further said that although the Panel on Security held a special meeting on 14 March 2001 to discuss the Scheme, the Administration should also consult the Panel on Manpower as the Scheme was more related to manpower policy than immigration policy. He requested that the Panel's concern be relayed to CS. Mr CHAN Kwok-keung, Deputy Chairman of Panel on Manpower, concurred with Mr LAU.

46. Mr James TO, Deputy Chairman of the Panel on Security, said that a special meeting was held by the Panel on Security on 14 March 2001 to discuss the Scheme because the Security Bureau was the co-ordinating Bureau for the Scheme. Moreover, the Panel had been following up on the policy on admission of Mainland professionals in recent years. For the special meeting on 14 March 2001, the Panel on Security had invited all other Members to attend.

47. Miss Emily LAU said that at the special meeting of the Finance Committee held on 22 March 2001 to examine the draft Estimates of Expenditure 2001-02 in relation to the Information Technology and Broadcasting Bureau, the Bureau Secretary had informed Members that a Task Force on Information Technology (IT) Manpower had been set up to examine initiatives to increase IT manpower supply. According to the Bureau Secretary, the Task Force would consult various sectors and bodies on a recommendation to admit overseas and Mainland IT professionals and would provide a report in the third quarter of 2001. Miss LAU said that it was peculiar that FS had already announced the Scheme in his Budget Speech before the Task Force provided its report.

48. Dr YEUNG Sum said that the Administration had previously undertaken to consult the relevant Panels on major legislative and financial proposals before their introduction into the Council.

49. Mr SIN Chung-kai said that as the Scheme also raised policy issues relating to manpower supply of IT and finance professionals, the Panel on Financial Affairs and the Panel on Information Technology and Broadcasting should also be consulted. Mr James TO suggested that the House Committee should hold a special briefing on the Scheme as the subject matter straddled the ambit of several Panels.

50. The Chairman responded that it had been the practice that if a policy issue straddled a number of bureaux, one of them would take the lead and approach the corresponding LegCo Panel for briefing arrangements for Members. In the present case, she was given to understand that the Security Bureau had assumed the role of the "lead" bureau and had approached the Panel of Security for a special meeting to

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be held to discuss the Scheme. The Chairman considered that joint Panels meetings should be held to discuss the Scheme if necessary.

51. Mr LEE Cheuk-yan and Mr LAU Chin-shek were of the view that the Education and Manpower Bureau, and not the Security Bureau, should be the "lead" or "co-ordinating" bureau for the Scheme.

52. The Chairman said that she would convey Members' views to CS.

53. There being no further business, the meeting ended at 4:20 pm.

Legislative Council Secretariat

28 March 2001