

立法會
Legislative Council

LC Paper No. CMI/13/02-03

Ref: CB(3)/C/2 (00-04)

Committee on Members' Interests

**Minutes of the eighth meeting
held on Tuesday 8 April 2003 at 10:45 am
in Conference Room B of the Legislative Council Building**

- Members present** : Hon David CHU Yu-lin, JP (Chairman)
Hon SIN Chung-kai (Deputy Chairman)
Hon Cyd HO Sau-lan
Hon NG Leung-sing, JP
Hon Bernard CHAN, JP
Hon Mrs Sophie LEUNG LAU Yau-fun, SBS, JP
Hon YEUNG Yiu-chung, BBS
- Clerk in attendance** : Mrs Betty LEUNG
Chief Assistant Secretary (3)1
- Staff in attendance** : Mr Ray CHAN
Assistant Secretary General 3

Mr LEE Yu-sung
Senior Assistant Legal Adviser 1

Mr Arthur LEUNG
Senior Assistant Secretary (3)1
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I. Disclosure of indirect pecuniary interests
(LC Paper No. CMI/4/02-03)

The Chairman advised that at the meeting of the Panel on Information Technology and Broadcasting held earlier on, a member enquired whether “donations received by a Member’s political party would constitute an ‘indirect pecuniary interest’ which should be disclosed under Rule 83A of the Rules of Procedure”. The Panel decided to refer the subject matter to the Committee on Members’ Interests (CMI) for consideration. As instructed, Senior Assistant Legal Adviser 1 (SALA1) prepared a paper on the subject (LC Paper No. LS12/02-03 issued vide LC Paper No. CMI/4/02-03) for members’ reference. The Chairman invited SALA1 to brief members on the paper.

2. SALA1 briefed members on the salient points of the paper:

- In April 2002, the Legal Service Division prepared a note on the meaning of “direct pecuniary interest” for the members of the House Committee. In the note, “direct pecuniary interest” was referred to as an interest which was “immediate and not merely of a remote or general character, and must be personal to the Member”. Having regard to such description, “indirect pecuniary interest” could be interpreted as an interest not immediate and personal to a Member, but having a certain relationship with the Member which would make a reasonable person to consider as might influence the decision or speech of the Member.
- In determining whether indirect interest of a person existed, some organizations or city councils made reference to the relationship of that person with some other people or bodies (“a relationship between him and the body which had a direct interest in the matter or reasonably likely to be affected by the decision”). However, given the wide scope of the matters to be considered by a legislature, such an approach to define indirect pecuniary interest might not be applicable in the context of a legislature.
- CMI had stated in the guidelines provided to Members that the Committee did not consider it necessary to elaborate on the meaning of “direct pecuniary interest”. CMI advised that in considering the matters concerned, the general standard that “A Member should adhere to the spirit and the letter of any rules or regulations made by the Council” should be applied.
- In practice, it would be difficult for an outsider to judge the exact nature of the relationship between a Member and the donations received by his political party. As such, the question of whether an indirect pecuniary interest existed should in the first instance be judged by the Member concerned, having regard to facts known to him, and whether a reasonable

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person would consider the donation might influence the decision or speech of the Member.

Clerk

3. Mr YEUNG Yiu-chung, Mr NG Leung-sing and the Deputy Chairman agreed with SALA1's analysis. The Deputy Chairman suggested circulating the paper to all Members for reference. The Chairman sought members' view in this regard and obtained their consent.

4. Miss Cyd HO pointed out that the development of "political party culture" was still immature in Hong Kong. Up to now, political parties were registered as limited company or society and there was no political party legislation to regulate political parties at present. However, in view of the increasing number of political parties operating systematically and participating in the work of the Legislative Council, as well as the scandals about election donations received by political parties in foreign countries, she considered that the interests received by political parties warranted monitoring. As political parties might influence the decision or speech as well as the votes of their members in the capacity of Legislative Council (LegCo) Members, she opined that CMI should examine the issue in further details. In this connection, she suggested the Secretariat collect information and conduct a study on the following subject: the stipulations and system set down by overseas countries, whose culture of political parties are fully developed, on declaration of political donations and pecuniary interests received by political parties, which have members elected and returned to the legislature.

5. Mr YEUNG Yiu-chung pointed out that since LegCo Members might not necessarily be the core members of their political parties, they might encounter practical difficulties in declaring the interests received by their political parties. At present, CMI targeted its monitoring at Members instead of political parties. Regarding the ways to monitor the interests received by political parties, he agreed that initially, reference should be drawn from overseas experience.

6. Mr NG Leung-sing also agreed that the culture of political parties and the development of party politics in Hong Kong had not matured yet. However, if only the matters related to the interests received by political parties were examined, the scope of the study would be too narrow. He opined that the study should cover all matters related to the development of party politics and could be conducted by the Panel on Constitutional Affairs (CA Panel). Mrs Sophie LEUNG shared Mr NG Leung-sing's view. She considered it necessary to conduct a comprehensive study on the development of the political party policies, including the study on whether the votes and partial interests of a constituency would constitute interests to be declared. The Deputy Chairman also considered that the subject about the development of party politics should be referred to CA Panel for study.

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7. The Deputy Chairman enquired about the requirements that Members should declare sponsorships received from their political parties. In reply, the Clerk said that according to the Guidelines on Registration of Interests issued to all Members by CMI, a Member should register the financial sponsorships directly received from his political organization, including cash subsidy of HK\$5,000 or above each month. SALA1 added that the Guidelines did not require Members to register the services provided by their political parties or those provided by their political parties through a third party company.

8. Miss Cyd HO pointed out that Members were only required to declare sponsorships received from their political parties which exceeded HK\$5,000. The relationship between Members and the person who made the donations through the political parties was not that obvious, which gave rise to grey areas in the existing declaration system. She said that she did not object to entrusting the comprehensive study on party politics to CA Panel. However, as the interests received by political parties and Members' personal interests might be related, she opined that CMI could conduct a preliminary study on the matter.

9. The Chairman shared Miss Cyd HO's view that CMI could conduct a preliminary study on the interests received by political parties and then refer the matter to CA Panel for a comprehensive study. Members agreed with the Chairman's suggestion. Mrs Sophie LEUNG suggested that issues such as the votes which could influence the decision or speech of Members or whether partial interests of a constituency constituted interests to be declared could also be examined. In response, Assistant Secretary General 3 said that the existing declaration system only covered "pecuniary" interests while non-material interests were not included. Members agreed that the issue could be considered in the context of the comprehensive study on party politics.

10. The meeting ended at 11:22 a.m.