

立法會
Legislative Council

LC Paper No. CB(2)2352/02-03

(These minutes have been
seen by the Administration)

Ref : CB2/PL/CA

Panel on Constitutional Affairs

**Minutes of meeting
held on Thursday, 24 April 2003 at 2:30 pm
in Conference Room A of the Legislative Council Building**

- Members present** : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon James TIEN Pei-chun, GBS, JP
Hon NG Leung-sing, JP
Hon Margaret NG
Hon CHEUNG Man-kwong
Hon HUI Cheung-ching, JP
Dr Hon Philip WONG Yu-hong
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung, BBS
Hon SZETO Wah
Hon TAM Yiu-chung, GBS, JP
Hon IP Kwok-him, JP
- Members absent** : Hon Emily LAU Wai-hing, JP (Deputy Chairman)
Dr Hon YEUNG Sum
Hon LAU Ping-cheung
- Public officers attending** : Item III

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Clement C H MAK
Permanent Secretary for Constitutional Affairs

Mr Joseph LAI Yee-tak
Deputy Secretary for Constitutional Affairs

Ms Eva YAM Ya-ling
Principal Assistant Secretary for
Constitutional Affairs

Mr LI Wing
Chief Electoral Officer

Item IV

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Clement C H MAK
Permanent Secretary for Constitutional Affairs

Mr Joseph LAI Yee-tak
Deputy Secretary for Constitutional Affairs

Mr Bassanio SO Chek-leung
Principal Assistant Secretary
for Constitutional Affairs

Mr LI Wing
Chief Electoral Officer

Item V

Mr Stephen LAM Sui-lung
Secretary for Constitutional Affairs

Mr Clement C H MAK
Permanent Secretary for Constitutional Affairs

Mr Joseph LAI Yee-tak
Deputy Secretary for Constitutional Affairs

Mr Bassanio SO Chek-leung
Principal Assistant Secretary
for Constitutional Affairs

Clerk in attendance : Mrs Percy MA
Chief Assistant Secretary (2)3

Staff in attendance : Mr Arthur CHEUNG
Senior Assistant Legal Adviser 2

Mr Paul WOO
Senior Assistant Secretary (2)3

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I. Confirmation of minutes of meetings
(LC Paper Nos. CB(2)1819/02-03 and 1821/02-03)

The minutes of the meetings held on 17 March 2003 and 8 April 2003 respectively were confirmed.

II. Items for discussion at the next meeting
(LC Paper No. CB(2)1832/02-03(01))

2. Members agreed to discuss the following items at the next regular meeting on 19 May 2003 -

- (a) Voter registration campaign for the 2003 District Councils election (item proposed by the Administration);
- (b) Procedural arrangements for financial assistance scheme for the 2004 Legislative Council elections (item proposed by the Administration); and
- (c) Research Report on "Chairmanship in Parliamentary Committees in Some Selected Places".

(Post-meeting note: On the instruction of the Chairman, item (b) was replaced by "Procedure for appointment and removal of principal officials under the accountability system".)

Issues relating to employees of subvented welfare organisations taking up public offices

(Item 3 on the list of outstanding items for discussion (LC Paper No. CB(2)1832/02-03(01))

3. The Chairman said that the above item was last discussed at the Panel meeting on 18 February 2002, at which the Administration advised the Panel that the Social Welfare Department (SWD) had issued the "Guidelines for non-government organisations (NGOs) receiving welfare subventions on employees taking up public offices". He referred to a paper provided by the Administration dated March 2003 (LC Paper No. CB(2)1592/02-03(01)) which

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reported on the results of a survey conducted by SWD on the arrangements of NGOs concerning their employees taking up public office. Out of 184 NGOs, 176 had responded to the survey. The result indicated that 33 NGOs had promulgated internal guidelines. Of those without guidelines, 18 were in the process of developing guidelines, 72 would consider developing such guidelines, and the remaining 53, mostly small organisations, were not considering developing guidelines and would deal with such cases as they arose. The Administration would arrange sharing sessions among the NGOs and hoped that more NGOs would develop guidelines for their employees in due course.

4. The Chairman said that he hoped that the sharing sessions to be conducted by the Administration would result in more uniformed arrangements for employees of welfare NGOs taking up public offices.

(Post-meeting note - The Chairman advised that the item should be removed from the outstanding list of the Panel, and the Administration be requested to advise the Panel of further progress in due course.)

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III. Electoral arrangements for 2003 District Councils election
(LC Paper Nos. CB(2)1823/02-03(01) and (02))

5. At the invitation of the Chairman, Chief Electoral Officer (CEO) briefed members on the paper prepared by the Registration and Electoral Office (LC Paper No. CB(2)1823/02-03(01)) on arrangements for the 2003 District Councils (DCs) election to be held in November 2003. The paper detailed the Electoral Affairs Commission's (EAC) proposals on -

- (a) vote counting arrangements, including decentralising vote counting to individual polling stations, declaration of election results, distinction between invalid and questionable ballot papers;
- (b) polling hours (proposed shortening of the polling time to 12 hours, i.e. from 7:30 am to 7:30 pm); and
- (c) staffing requirement and honoraria for polling staff.

6. CEO further informed members that EAC would consult the public on its proposed guidelines on election-related activities in respect of the 2003 DCs election within a 30-day period starting from 28 April 2003. Putting in place the proposed counting arrangements required amendments to the regulation on electoral procedure. EAC aimed at completing the necessary legislative process by the end of the current legislative session so that the electoral guidelines could be finalised and issued in time for the election.

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Issues raised by members

Polling hours

7. Mr IP Kwok-him said that he supported the proposal to shorten the polling hours from 7:30 am to 7:30 pm. He added that he had consulted members of the DCs and the general view was that the existing polling hours from 7:30 am to 10:30 pm were unduly long. Mr NG Leung-sing and Mr HUI Cheung-ching also expressed support to the proposal to reduce the polling time to 12 hours.

8. Mr NG Leung-sing asked whether there were statistics showing the turnout rate of voters after 7:30 pm. CEO responded that according to past experience, except for the first two polling hours during which the turnout rate was generally lower, the turnout rate for the remaining hours was quite even, i.e. in the region of 2% to 3% of the number of registered voters.

9. Mr James TIEN expressed concern that the shortening of the polling hours from 15 to 12 hours would reduce the total voters' turnout by nearly 20%.

10. SCA said that the proposal to reduce the polling time was made having regard to the views of the public on the matter. He pointed out that the Honourable Emily LAU and some Members of LegCo also supported reducing the polling hours for the 2004 LegCo elections.

11. Mr CHEUNG Man-kwong said that he preferred to maintain the existing polling hours, and doubted whether the proposal to reduce the polling hours represented the majority wish of the public. He said that electoral arrangements should be designed in such a way as to be able to serve the needs and convenience of the electors. He pointed out that members of the public usually engaged themselves in family activities on Sundays, which often finished late in the evening. If the polling hours were to end at 7:30 pm, many electors might not be able to turn up in time to cast their votes before the poll closed. He said that if the polling hours were to be reduced to 12 hours, the closing time of the poll should end as late as possible, e.g. 9:30 pm was preferable to 7:30 pm. Mr James TIEN supported Mr CHEUNG's views.

12. The Chairman said that shortening the polling hours would not necessarily result in a reduction of the total number of votes cast in the elections. While he opined that the polling time should be reduced to 12 hours, he had no strong views on the actual polling hours which should be decided after taking into account the voting habit of electors.

13. CEO said that he would reflect members' views to EAC for consideration. SCA added that if changes were introduced, the

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Administration would strengthen publicity to ensure that the public would be made aware of the new polling hours.

Invalid and questionable ballot papers

14. In responding to the Chairman, CEO said that under the proposed new arrangements, where an objection to the admission or rejection of a questionable ballot paper was raised by candidates or their election agents, the validity of the ballot paper would be determined by the Presiding Officer (PrO), instead of by the Returning Officer (RO) as the law now stood. The decision of PrO would be final. The Administration would introduce relevant legislative amendments to implement the proposal.

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15. The Chairman said that RO, who would be given appropriate legal advice on electoral matters where required, was in a better position than PrO of individual polling stations to decide on the validity of questionable ballot papers. He opined that EAC should reconsider the proposal.

Vote counting arrangements

16. Mr IP Kwok-him asked about the length of time that would be required to complete the vote counting, when a polling station was immediately converted into a counting station after the close of poll.

17. CEO replied that based on the experience of the last three by-elections, which on average involved counting of about 2 000 votes at a polling station, the counting was completed in 50 minutes to one hour. Assuming that each polling station would have an average of about 3 000 votes in the 2003 DCs election, he expected that the counting would take more than one hour, and the declaration of the result by RO could be made within two hours. He added that upon completion of vote counting at individual counting stations, PrO of each counting station would immediately make known the counting result to the candidates and their election agents present.

18. Mr IP said that for constituencies with two or more polling stations, it would be impossible for candidates and their agents to be present to observe the counting of votes at all stations. He said that the Administration should reconsider conducting vote counting at one of the polling stations for DC constituencies with two or more polling stations.

19. CEO said that EAC was in favour of decentralising vote counting which had the advantage, among others, of enhancing openness and transparency of the counting process. He pointed out that in the case of the 1999 DCs election, there were more than 100 constituencies with two or more polling stations. Voters and members of the public would find it confusing if the counting arrangement varied from one constituency to another. The

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arrangement for conducting vote counting at individual polling stations would provide more convenience to voters and members of the public to observe the count. This was particularly the case for constituencies in the Islands District, where the polling stations were quite far apart.

20. Mr James TIEN said that he supported the proposal to conduct vote counting at individual polling stations.

Adm 21. The Chairman said that the principle that had been adopted was for ballot papers from individual polling stations to be mixed before counting. This arrangement would safeguard the confidentiality of voters, especially those in small polling areas, and minimise the chance of intimidation or other illegal conduct at elections. Having regard to this principle and his comment in paragraph 15 above, he requested the Administration and EAC to reconsider the proposal for vote counting to be decentralized to individual polling stations. He also expressed concern about the implications of extending the arrangement to LegCo elections.

Adm 22. Mr IP Kwok-him pointed out that in a recent by-election, the erection of partitions in the polling station had blocked the view of people who were present to observe the vote counting. CEO agreed to review and improve the arrangement.

23. Mr NG Leung-sing asked whether there were cases where a PrO had refused to accede to the request of a candidate or his election agents for a recount of votes. CEO replied that he was not aware of any such cases.

IV. 2004 Legislative Council election : Printing of names and emblems of political parties or organisations or candidates' photographs on ballot papers

(LC Paper Nos. CB(2)1831/02-03(01) to (03))

24. CEO briefed members on the paper prepared by the Registration and Electoral Office (REO) (LC Paper No. CB(2)1831/02-03(01)), which set out the revised preliminary proposal of EAC to print the following items on the ballot papers for use in the LegCo elections -

- (a) the names and emblems of political parties or organisations or non-political organisations to which candidates belonged, or the personal emblems of independent candidates; and
- (b) the photographs of candidates.

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Issues raised by members

Registration of names and emblems

25. Mr CHEUNG Man-kwong said that Members belonging to the Democratic Party were in support of the proposal. Referring to the vetting criteria for applications for registration of names and emblems, Mr CHEUNG said that an application could be rejected on the ground that the name or emblem was offensive. He opined that appropriate and clearly defined criteria should be put in place to guard against political censorship encroaching upon the freedom of expression. In response, SCA said that in making a decision on whether to grant or refuse an application made by an organisation or individual, EAC would act in accordance with the law and the provisions in the Basic Law which guaranteed rights and freedoms.

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26. Mr SZETO Wah asked whether a political party or organisation would be allowed to register different emblems for different lists of candidates to facilitate identification. SCA replied that the point raised by Mr SZETO would be reflected to EAC for its consideration.

27. Mr HUI Cheung-ching said that Members belonging to the Hong Kong Progressive Alliance were in support of the proposal. Referring to Annexes A and B of REO's paper, Mr HUI questioned about the time required for processing straightforward applications for registration of names and emblems under the fast-track approach. CEO replied that under this approach, the maximum time required for registration during the first registration cycle and any subsequent cycle would be 10 weeks and eight weeks respectively. As most of the political parties or organisations fielding candidates to run in elections were well-known, long-established parties or organisations, it would in practice take a shorter time for the registration process to be completed.

Logos of companies in support of candidates

28. Mr NG Leung-sing pointed out that in past elections, some candidates were supported by business sectors and commercial organisations. He expressed concern that under the proposed arrangements, a commercial organisation which sponsored a candidate in an election could promote its business by having its name or logo registered and printed on the ballot papers. The Chairman opined that the ballot papers should not be used for publicity other than for the purposes of the elections. He asked the Administration and EAC to review the proposed arrangements with a view to plugging any loopholes which might give rise to abuse. SCA agreed to consider the issues raised by members.

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Ballot paper for geographical constituency (GC) elections

29. A sample of the possible design of the ballot paper which would be used for the 2004 LegCo GC elections was tabled at the meeting for members' reference. Members noted how different lists of candidates in a GC, with the names and emblems of the political parties or organisations or independent candidates, and the photographs of the candidates would appear on the ballot paper. SCA also demonstrated how the ballot paper, when folded in A4 size, could easily be slotted into the newly designed ballot box.

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30. In relation to the design of the ballot paper, members raised the following points for the consideration of the Administration -

- (a) the names of the candidates, particularly the Chinese names, should be larger in size and in bold print for easy identification;
- (b) the emblem should be printed beside or before the name of the political party or organisation to allow more space for the photographs of the candidates;
- (c) whether hand-drawn portraits could be used instead of personal photographs;
- (d) the design of the ballot paper should also cater for GCs which might end up with more than 12 lists of candidates; and
- (e) the Administration might propose a number of options on the design of the ballot paper for the consideration of members, having regard to the views expressed.

V. Requirements on the number of subscribers for Legislative Council elections and District Council elections

(LC Paper No. CB(2)1832/02-03(02))

31. SCA briefed members on the proposed measures to tackle the problem of election candidates submitting very large number of subscribers in their nomination papers. In gist, the Administration proposed to amend the relevant legislative provisions to the effect that candidates would only be allowed to submit a specified number of subscribers (100 for a LegCo GC candidate list and 10 for a LegCo FC candidate or DC candidate), plus a 100% buffer as potential subscribers to make up for any shortfall of the legal requirements.

32. Miss Margaret NG enquired whether similar measures would be introduced for future elections of the Chief Executive (CE). In reply, SCA

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said that the problem of candidates submitting very large numbers of subscribers, including a significant proportion which were ineligible subscribers, did not exist in the CE election. Therefore, the Administration had no intention to introduce similar measures for the CE election at this stage.

33. In response to Mr SZETO Wah, SCA explained that under the new arrangements, RO would stop verifying the names on the nomination papers submitted by the candidates once the legal subscription requirement had been reached. Any "surplus" would not be regarded as having subscribed the nomination concerned.

34. The Chairman said that where a subscriber had nominated a candidate, any subsequent nominations by the same subscriber should be regarded as invalid. He enquired whether a subscriber should be required to specify the date of nomination on the nomination paper. SCA advised that under the existing system, RO would verify the nominations according to the order of receipt of the nomination papers handed in by the candidates, as well as the sequence of the names on the nomination papers.

35. Miss Margaret NG and Mr CHEUNG Man-kwong considered that it was not necessary to state the nomination date. Miss NG said that even if a date was given, its validity could not be verified.

VI. Any other business

Proposed creation of a permanent post of AOSG"C"(D2)/non-civil service position at D2 or equivalent as Administrative Assistant to the Secretary for Constitutional Affairs

(LC Paper No. CB(2)1832/02-03(03))

36. SCA briefed members on the paper prepared by the CAB which explained the justifications for the creation of the above proposed post with effect from 1 July 2003. The additional staff cost required for the creation of the proposed post would be fully offset by the savings from the deletion of an existing AOSG"C" (D2) post in CAB, which was made possible by the redistribution of certain duties with the Bureau.

37. Members raised no objection to the proposed creation of the post.

38. The meeting ended at 4:15 pm.