

**Extract from minutes of meeting
of the Panel on Constitutional Affairs on 31 October 2000**

IV. Proposal to create a supernumerary post of Justice of Appeal of the Court of Appeal of the High Court in relation to the appointment of Chairman of the Electoral Affairs Commission
(LC Paper No. CB(2) 126/00-01(04))

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15. Mr YEUNG Yiu-chung asked about the status of the Chairman of EAC. SCA(Ag) explained that the EAC was a statutory body established under the EAC Ordinance (Cap. 541). The EAC Ordinance required the Chairman of the EAC to be a Judge of the High Court. When the EAC was established in September 1997, Mr Justice WOO was appointed as the Chairman, and a supernumerary post of Judge of the Court of First Instance of the High Court (as Mr Justice WOO then was) was created as a replacement post in the Judiciary. In September 2000, the CE, in consultation with the Chief Justice of the Court of Final Appeal, re-appointed Mr Justice WOO, Justice of Appeal, to be the Chairman of the EAC for another term of three years up to 28 September 2003.

16. In further response to Mr YEUNG, SCA(Ag) said that it was undesirable to have a part-time Chairman for the EAC. As explained in paragraphs 4-6 of the paper, the EAC had a very heavy schedule in the coming three years and all these activities required a very heavy commitment of the EAC Chairman.

17. Some members expressed concern about the need for a full-time EAC Chairman. The Chairman pointed out that it was unlikely that the EAC Chairman would be heavily involved in the activities mentioned in paragraphs 4-6 of the paper. He asked whether the EAC Chairman had also assisted in judicial duties when he had spare capacity.

18. AJA informed members that Mr Justice WOO had sat in court for the Judiciary for about 70 days in the current year, but not on a regular basis. SCA(Ag) supplemented that although Mr Justice WOO also took up judicial duties when time permitted, he was mainly engaged in pre-trial duties such as dealing with applications for bail and leave to appeal; and training of judicial officers, etc. Being Chairman of the EAC, his main task was to deal with electoral matters.

19. Miss Margaret NG said that she felt uncomfortable about the arrangement for the same High Court judge to be re-appointed as the EAC Chairman and to undertake judicial duties on a part-time basis. Pointing out that the objective for requiring the EAC Chairman to be a High Court judge was to ensure that the person appointed would be impartial and apolitical, she was concerned whether this objective could still be achieved after a judge had worked closely with the executive in his capacity as the EAC Chairman for a prolonged period of time. Moreover, given the complexity of the cases heard before the CA, it would be undesirable for such cases to be tried by part-time judges.

20. Mr SZETO Wah held the view that the EAC should have a full-time Chairman and the CA should have full-time judges. The present arrangement to create a replacement post to take up Mr Justice WOO's judicial duties and at the same time to allow him to undertake certain judicial duties in addition to his functions as the EAC Chairman was considered inappropriate. It was also undesirable for a High Court judge to be redeployed away from the Judiciary to take up non-judicial duties for a considerable period of time. Mr SZETO opined that the arrangement might need to be reviewed.

21. The Chairman requested the Administration to take note of members' concerns. Further discussion could be held when the proposal was presented to the Establishment Subcommittee.

22. Ms Emily LAU asked whether there would be a statutory body similar to the EAC to oversee the election of the second term CE. She said that if the EAC was to take up this function, it might need additional resources. SCA(Ag) said that he was not in a position to give an answer at this stage. A bill on the election of the CE would be introduced into the LegCo in mid-2001.

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**Extract from minutes of meeting of the Bills Committee on
Legislative Council (Amendment) Bill 2003 on 29 May 2003**

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Electoral Affairs Commission (EAC)

4. Members noted the concern expressed by some deputations that EAC had exercised excessive power in regulating election-related activities, such as in compelling compliance with the equal time principle in relation to media interviews of election candidates. Members agreed that the Panel on Constitutional Affairs might follow up the issue of the function and power of EAC. Ms Audrey EU also suggested that the Research and Library Services Division might be requested to conduct a research to compare the function and power of EAC with that of similar bodies in overseas jurisdictions.

CA Panel
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