

Legislative Council

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Subcommittee on Statutes of the University of Hong Kong (Amendment) Statutes 1998

Minutes of Meeting held on Friday, 11 September 1998 at 3:45 pm in Conference Room B of the Legislative Council Building

- Members Present** : Hon Andrew WONG Wang-fat, JP (Chairman)
Hon Martin LEE Chu-ming, SC, JP
Hon CHEUNG Man-kwong
Hon YEUNG Yiu-chung
Hon SZETO Wah
- Public Officers Attending** : Mr Nigel J FRENCH, JP
Secretary General, University Grants Committee
- Miss Angelina FUNG
Principal Assistant Secretary for Education and Manpower (Ag.)
- Attendance by Invitation** : The University of Hong Kong
- Professor Y K CHEUNG
Acting Deputy Vice-Chancellor
- Professor R T T YOUNG
Acting Pro-Vice-Chancellor
- Mr H W K WAI
Deputy Registrar
- Clerk in** : Mrs Constance LI

Attendance Chief Assistant Secretary (2) 2

Staff in Attendance : Miss Anita HO
Assistant Legal Adviser 2

Mr Stanley MA
Senior Assistant Secretary (2) 6

I. Election of Chairman

Nominated by Mr SZETO Wah and seconded by Mr YEUNG Yiu-chung, Mr Andrew WONG was elected Chairman of the Subcommittee.

2. The Chairman informed members that Mr Fred LI Wah-ming had withdrawn from the Subcommittee on 11 September 1998.

II. Meeting with the University and the Administration

3. The Chairman welcomed representatives of the University of Hong Kong (HKU) and the Administration to the meeting. He said that the Subcommittee was mainly concerned about one of the Amendment Statutes of the University of Hong Kong (Amendment) Statutes 1998 which provided for a mechanism to appoint the Dean of a Faculty by the Council of HKU. Members noted that previously the Statutes of HKU only allowed the appointment of the Dean of a Faculty when a Dean could not be elected from amongst teachers of the relevant Faculty. However, Amendment Statute IX(1) appeared to have introduced a new appointment system to replace the existing election system for the selection of the Dean of Faculty. The Chairman therefore invited representatives of HKU to explain the reasons for the change.

4. In response, Acting Pro-Vice-Chancellor (APVC) of HKU explained the background leading to the Amendment Statutes. She said that the Amendment Statutes were largely necessitated by a major overhaul of the structure of the Faculty of Dentistry following a review in 1996. The review report recommended the dissolution of all constituent departments and units of the Faculty of Dentistry, in favour of a single organizational entity. In view of the heavy administrative responsibilities undertaken by the Dean as a result of the reorganization, the report also recommended the provision of a full-time appointed Dean in the Faculty of Dentistry, and an elected Chairman of the Board of the Faculty of Dentistry. The recommendations of the review report

were supported by the Board of the Faculty of Dentistry, the Senate and the Council of the HKU. In order to provide for the necessary statutory power to implement these recommendations, the HKU had made the Amendment Statutes which were laid on the table of the Legislative Council on 9 September 1998. She stressed that the Amendment Statutes were drafted long before the consultancy study on the review of the university structure currently being conducted and there was no direct relationship between the two issues.

5. On the rationale of establishing an appointment system for the selection of a Dean of Faculty, APVC explained that the intention was only to provide an alternative to the election system should the Faculty concerned see the need for an appointed Dean. She emphasized that the Amendment Statute in question did not seek to replace the election system with an appointment system. She pointed out that the Chairman of the Faculty Board (who was responsible for policy decisions at Faculty level) would still be elected from amongst teachers of the relevant Faculty, while an appointed Dean could not stand for election although he would be a member of the Faculty Board. She said that it was the international trend today to provide a full-time appointed Dean to look after the day-to-day administrative matters of large Faculties, so that the Chairman of the Faculty Board could concentrate on the teaching and research development of the Faculty. In fact, most universities in the United States and many in the United Kingdom and Australia had already adopted such practice. She envisaged that large Faculties such as the Faculty of Medicine in HKU might also consider appointing a Dean for administrative matters. This would enhance the efficiency of Faculty management in the long run.

6. Mr YEUNG Yiu-chung asked whether it would be more appropriate to re-title the appointed Dean to “Secretary-General” to avoid confusion with an elected Dean or the elected Faculty Board Chairman. APVC explained that the Dean of a Faculty, appointed or elected, had to represent the Faculty in liaison with the Deans and academics of other tertiary educational institutions. The Dean must therefore have outstanding academic achievements in addition to other qualities. Besides, Dean was the title used in most universities in the world, regardless of whether the Dean was selected by election or appointment. Moreover, to draft a new Amendment Statute on the re-titling of post would be time-consuming and would further delay the implementation of the appointment system.

7. Mr SZETO Wah was of the view that the consultancy report on the university structure would have impact on the Amendment Statutes. He asked why HKU could not defer the Amendment Statutes until the consultancy findings were known and fully discussed within the university. He pointed out that while Amendment Statutes IX(1) was intended to cater for the situation of the Faculty of Dentistry, it actually applied to all other Faculties whose views had yet to be consulted. The Chairman asked whether HKU had

considered confining the amendment to the Faculty of Dentistry in the first instance while awaiting the consultancy findings on the review of university structure.

8. Representatives of HKU responded that the Amendment Statutes had been forwarded to the Administration in October 1997, while the consultancy report was only released in mid-1998. She pointed out that the Amendment Statutes were already rather late, since the re-organisation of the Faculty of Dentistry had been completed. Representatives of HKU further clarified that Amendment Statute IX(1) was intended to provide Faculties with both the election and appointment options in line with international practice, and this was likely to be welcomed by some other Faculties in HKU. It was therefore considered that the option of elected and appointed Dean should be provided to all Faculties instead of only the Dental Faculty.

9. The Chairman asked whether the Faculty Board or the Council would have the ultimate authority to decide whether the Dean of a Faculty should be appointed or elected. Representatives of HKU responded that the Board of Faculty concerned had the discretion to appoint or elect its Dean, subject to the endorsement of the Senate and decision of the Council of HKU. Secretary-General of UGC added that the Amendment Statutes had stated that the Faculty Board recommendation was "subject to the decision of the Council". The Chairman expressed concern that the drafting of Amendment Statute IX(1) did not clearly define the decision-making process, and that it was unclear as to whether the Faculty Board or the Senate/Council would take the initiative in recommending the selection method of a Dean of Faculty. Mr Martin LEE also questioned whether it was possible under the Amendment Statutes for the Senate to exert pressure on the Faculty Board to replace the elected Dean with an appointed one. At the invitation of the Chairman, ALA2 advised that on the face of the wording of Amendment Statute IX(1), the recommendation would come from the Senate but not the Faculty Board. Responding to Members' concerns, representatives of HKU said that the wording of Amendment Statute could be improved based on legal advice. In this respect, Mr Martin LEE was of the view that the old version prior to the Amendment Statute was more acceptable. To allay members' concern, APVC further explained that it had been increasingly difficult to find suitable members of the Faculty Board to stand for election as the Dean of the Faculty. Most senior lecturers, in particular those of large Faculties, were not willing, because of their heavy teaching and research workload, to take on the heavy administrative responsibilities incumbent on the Dean of Faculty. In this connection, the Amendment Statute served the purpose of making it clear that both options were open to Faculties. Furthermore, it obviated the need for going through the election procedures when it was obvious that no candidate in the Faculty would stand for election as the Dean of Faculty.

10. Noting that the Faculty of Dentistry had already appointed its Dean on a

temporary basis before the Amendment Statutes came into effect, Mr CHEUNG Man-kwong asked whether it constituted a breach of the HKU Statutes prevailing at the time. Deputy Registrar of HKU responded that the old Statutes also provided for the appointment of a Dean if an election failed to identify a suitable person. He clarified that the Amendment Statute in question was only to make it clear that both the appointment and election options were available to Faculties from the outset.

錯誤! 找不到參照來源。 Mr SZETO Wah sought clarification on the division of responsibilities and working relationship between the Dean of Faculty and the Chairman of the Board of Faculty. Representatives of the HKU responded that the Dean was responsible for day-to-day administrative matters of the Faculty, while the Faculty Board Chairman was accountable for the academic development of the Faculty. To ensure that the appointed Dean would not assume the role of the Faculty Board Chairman, Statute XXVI had been amended to the effect that an appointed Dean could not be elected as the Chairman of the Board of Faculty, although he was a member of the Faculty Board under Amendment Statute XII.

11. The Chairman remarked that universities should be given autonomy to determine their internal matters. He noted that the Amendment Statute only meant to give flexibility to the Faculties in the selection of their Deans. He suggested that if Members had concerns about the administrative arrangements in universities, the issue could be further discussed by the Panel on Education. Mr Martin LEE said that he was not convinced of the need of the Amendment Statute as the old version could already serve the purpose. He was concerned that the Amendment Statute would result in a regression of democracy in universities. Mr CHEUNG Man-kwong suggested to re-phrase Amendment Statute IX(1) to the effect that if no candidate stood for election as a Dean of Faculty, then the Faculty concerned could automatically switch to the appointment method without having to consult the Senate and the Council. Deputy Registrar of HKU responded that the Senate had intended to provide the Faculty Boards with the choice, but Mr CHEUNG's suggestion implied a permanent transfer of the Senate's power to the Faculty Boards and this would require further consultation within HKU. Mr CHEUNG Man-kwong said that if the authority was to be delegated from the Senate to the Faculty Board, he would prefer deleting the reference to the Senate in the Amendment Statute. Representatives of HKU responded that they would need to seek legal advice and the opinion of the Senate on Mr CHEUNG's suggestion.

12. To address members' concerns that both the English and Chinese versions of Amendment Statute IX(1) did not accurately reflect the intention of giving Faculty Boards the discretion to decide on the method of selecting their Deans, the Chairman proposed two alternative English versions for the consideration of HKU. The wordings of the revised versions were -

(a) Option A

“The Dean of each Faculty shall -

- (i) be elected, for a period of three years, by the members of the Board of the Faculty, from among the teachers in the Faculty, or
- (ii) subject to the decision of the Council, on the recommendation of the Board of Faculty concerned and endorsed by the Senate, be appointed by the Council, for such period as the Council shall determine.

A Dean shall be eligible for re-election or re-appointment.”

(b) Option B

“Subject to the decision of the Council, on the recommendation of the Board of Faculty concerned and endorsed by the Senate, the Dean of each Faculty shall either -

- (i) be elected, for a period of three years, by the members of the Board of the Faculty, from among the teachers in the Faculty, or
- (ii) be appointed by the Council, for such period as the Council shall determine.

A Dean shall be eligible for re-election or re-appointment.”

HKU

13. Representatives of HKU agreed to consult the Senate and the Council of HKU on the proposed revisions to Amendment Statute IX(1). Representatives of HKU also undertook to request the Department of Justice for an amended Chinese version when the English version was agreed.

(Post-meeting note : HKU informed the Subcommittee in its letter of 22 September 1998 that its Court, Council and Senate had agreed on a revised English version which was largely modelled on Option B.)

Way forward

14. The Chairman explained the procedures and the tight legislative timetable for scrutiny of subsidiary legislation. Members noted that amendments to the HKU Statutes would have to be made by 7 October 1998,

or 14 October 1998 if the period of scrutiny was extended by resolution. As HKU would need time to consult its Senate and Council on the proposed amendments, the Chairman suggested and members agreed to hold an urgent meeting immediately upon receipt of HKU's written confirmation of its acceptance of the amendments proposed by the Chairman. The Subcommittee would then decide whether a motion should be moved to extend the scrutiny period of the Amendment Statutes at the Council meeting on 30 September 1998.

15. The meeting ended at 5:30 pm.

Legislative Council Secretariat

19 April 1999