

立法會
Legislative Council

LC Paper No. CB(2)2456/99-00
(These minutes have been
seen by the Administration)

Ref : CB2/SS/3/99

Legislative Council
Subcommittee on subsidiary legislation
Relating to 2000 Legislative Council election

Minutes of sixth meeting
held on Thursday, 13 January 2000 at 10:45 am
in Conference Room B of the Legislative Council Building

Members Present : Hon Ronald ARCULLI, JP (Chairman)
Hon David CHU Yu-lin
Hon Cyd HO Sau-lan
Hon NG Leung-sing
Hon Mrs Selina CHOW LIANG Shuk-ye, JP
Hon Howard YOUNG, JP
Hon YEUNG Yiu-chung
Hon Emily LAU Wai-hing, JP
Hon CHOY So-yuk

Members Absent : Hon LEE Wing-tat
Hon Martin LEE Chu-ming, SC, JP
Hon CHAN Yuen-han
Hon Jasper TSANG Yok-sing, JP

Public Officers Attending : Mr Robin IP
Deputy Secretary for Constitutional Affairs

Mr Bassanio SO
Principal Assistant Secretary for Constitutional Affairs

Mr Lawrence PENG
Senior Assistant Law Draftsman

Miss Shirley WONG
Government Counsel

Mr LI Wing
Chief Electoral Officer

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

Staff in Attendance : Mr Stephen LAM
Assistant Legal Adviser 4

Mrs Eleanor CHOW
Senior Assistant Secretary (2)7

Action
Column

I. The way forward

The Chairman said that since the last meeting, members had approached him and expressed concern about the progress made in scrutinizing the Regulation. In considering the way forward, members might take note of the following options -

- (a) to support the Regulation; or
- (b) to amend the Regulation
 - i) The Subcommittee to propose amendments to simplify the procedure by replacing the registration procedure with a notification procedure. Under the revised procedure, an organization or a candidate who intended to have the particulars printed on a ballot paper should only be required to notify the EAC. The EAC would ascertain whether an organization or a candidate was authorized to use the particulars. The EAC might refuse to accede to the request on specified grounds which could be similar to those set out in section 7 of the Regulation now proposed for the EAC to refuse an application; or
 - ii) The Subcommittee to propose amendments to certain provisions. This would involve going through the Regulation in greater detail and also require more time for drafting amendments, not to mention the time the President and other Members needed for consideration of

the proposed amendments; or

(c) to repeal the Regulation.

2. The Chairman said that since the establishment of the Electoral Affairs Commission (EAC), LegCo had accepted the majority of its proposals. He had reservations about option b(i) above, which involved a change of policy. If the new proposal was forced upon the EAC, it would be inconsistent with LegCo's past practice, not to mention that the EAC would also need time to consider the principle and detailed implementation of members' proposal. As regards option b(ii), he doubted whether the Subcommittee had time to go through the Regulation in detail. Having regard to the above, he considered that it was better to repeal the Regulation. He invited views from members.

3. Mrs Selina CHOW said that it would be a pity for the Subcommittee to repeal the Regulation because the idea of having the name and emblem of an organization or a candidate printed on ballot paper was supported by the public as well as Members. Due to time constraint, she suggested that the Subcommittee should come up with a revised procedure which was open, transparent and fair, and which would provide flexibility to the EAC e.g. empowering the EAC to reject the use of a name or an emblem on specified grounds.

4. Mr YEUNG Yiu-chung said that he supported the Chairman's views. He said that the Regulation was more complicated than expected. It was better to have no regulation than to rush through one that was plagued with problems.

5. Ms Emily LAU said that she supported printing of name and emblem on ballot paper. However, the crux of the matter was whether there was sufficient time for the Subcommittee to complete its work. Having regard to the progress made by the Subcommittee, it was unlikely that it could complete scrutiny of the Regulation before 19 January 2000. As regards Mrs Selina CHOW's proposal, the EAC had already indicated at the last meeting that it did not consider necessary to introduce changes to the Regulation, not to mention the time required by the Legal Service Division for drafting a revised procedure. Unless the timing issue could be resolved, Ms LAU opined that the Subcommittee would have no choice but to repeal the Regulation.

6. Miss Choy So-yuk said that while she supported the principle of the Regulation, she considered that there were too many grey areas. She suggested that the issue of printing of name and emblem on ballot paper should be considered after the 2000 LegCo election with a view to implementing it in the 2004 LegCo election.

7. Mr Howard YOUNG said that since the Regulation imposed too many restrictions on organizations and natural persons, it was simply not possible to improve the Regulation to beat the deadline of 19 January 2000. Should the EAC agree to the simplified procedure proposed by members, a revised procedure could be drawn up for Members' consideration after the Regulation was repealed. It was still possible to implement the proposal for the 2000 LegCo election.

8. Having regard to members' views and the EAC's stance, Mrs Selina CHOW agreed that it was not practicable to further pursue her earlier suggestion. She said that even if the proposal could not be implemented for the 2000 LegCo election, candidates were still at liberty to use any names and emblems in publicity materials in relation to the election.

9. In response to Ms Emily LAU, the Chairman said that the Democratic Party would discuss its position in respect of the Regulation at its party meeting to be held later that day. It would appear that the Democratic Party was inclined to support the Regulation.

10. In response to members, Chief Electoral Officer (CEO) and Deputy Secretary for Constitutional Affairs (DSCA) said that the EAC and the Administration were of the view that the proposal put forward by the EAC was workable. However, given members' views on the proposal, the EAC and the Administration considered that it was better for LegCo to repeal the Regulation than to put forward a revised proposal which might have problems in implementation. CEO said that if the Regulation was repealed, the EAC would consider the views expressed by members with a view to reintroducing another piece of subsidiary legislation sometime in future. However, the proposal would not be implemented for the 2000 LegCo election.

11. The Chairman emphasized that while members supported the idea of allowing an organization or a candidate to have the name and emblem printed on ballot paper, they had reservations about the detailed implementation and technical aspects of the Regulation. He said that members respected the independence of the EAC and appreciated that EAC had other considerations before putting forward a proposal. Hence, they would not impose ideas on the EAC.

12. The Chairman advised that he had already given notice to move a motion to repeal the Regulation on 19 January 2000. He would report to the House Committee that members present at the meeting had unanimously agreed that the Regulation should be repealed. Members agreed. Members also agreed that the two meetings originally scheduled for 14 and 15 January 2000 should be cancelled.

13. Ms Emily LAU expressed concern that where subsidiary legislation involved complicated issues, the negative vetting procedure might pose problems to LegCo. She said that the procedure should be reviewed so as to prevent LegCo from running into similar difficulties. The Chairman agreed that for subsidiary legislation involving complicated and controversial issues, it would be helpful if the draft subsidiary legislation could be given to Members before gazettal, in order that Members would have more time to consider the issues.

14. The Chairman further said that part of the difficulties arose from the fact that there was no legislation on regulation of political parties at present. Ms Emily LAU asked about the Administration's position on the matter. However, she pointed out that enactment of legislation on political parties would not resolve all the problems relating to printing of names and emblems on ballot papers, as it could not apply to independent candidates.

15. DSCA responded that he had noted Members' views expressed at the Debate on Motion of Thanks on the matter. Since then the Constitutional Affairs Bureau had studied overseas practices and found out that many countries had legislation providing a system of registration of political party names and emblems. The Administration would further study the matter in more detail. In view of the complicated nature of the matter, the study would take some time.

16. The meeting ended at 11:20 am.