

## IMPERIAL COLLEGE UNION COURT

### Proposed Amendments to the Constitution and Regulations

Panel consisting of:  
Sebastian Tallents

14<sup>th</sup> January 2007

#### Proposed Amendments to the Constitution:

1. Two papers proposing amendments to the constitution have been tabled and are to have their second reading on Monday 19<sup>th</sup> January 2007.

2. Section 20.6 of the Constitution states:

The Court shall provide its opinion on the constitutional propriety, efficacy and fairness of a proposed constitutional or regulatory amendment to the Council before the second reading or referendum of the same. The Court may, at its discretion, provide an opinion upon the same to the Clerk to the Imperial College Council.

Such an opinion is purely an opinion for the information of Council members. It is not by any means binding and does not represent an intrusion on the sovereignty of Council over the constitution.

3. I have been appointed by the Court Chair as a panel of one to provide, on behalf of the Court, opinion as to the constitutional propriety, efficacy and fairness of the proposed amendments.
4. The purpose of the Court providing opinion to the Council on amendments to the constitution is to advise it if an amendment is illegal, or unfair, have unforeseen implications which undermined the constitutional framework, or are confusing and in practice unworkable; as such amendments would be likely to cause disputes that would later be brought before the Court.
5. While unlikely to be a problem with most proposed amendments, major constitutional amendments have been tabled in previous years that would certainly fall under this category. The Court would rather provide an opinion to Council on all amendments, as under paragraph 20.6 of the constitution, even if the opinion may often be nothing more than cursory approval, rather than establish a precedent that an opinion is only given if sought.
6. The precise mechanism for informing the Court that a constitutional amendment is being made is not clear.

#### Opinion:

7. Without prejudice to the powers of the Court laid out in the constitution, we recommend establishing a convention whereby:
8. The Council Chair informs the Chairman of the Court when a constitutional amendment has passed first reading.

9. Where the Court, commenting on a proposed amendment solely under the mechanism provided by 20.6, and finds the amendment to undermine the propriety of the constitution, be unfair, or un-eficacious, it will explain its concerns fully in the opinion but will refrain from suggesting alternative wording (unless purely dealing with a matter of spelling, punctuation, grammar or style) in order to avoid moving the Court into the political arena.
10. The opinion shall include the following disclaimer:

This opinion is provided by the Court (under paragraph 20.6 of the constitution) on the constitutional propriety, efficacy and fairness of the proposed amendments to the constitution and regulations. It is provided purely as an opinion for the information of Council members and should not be considered binding.
11. The Court would provide an opinion to the Clerk to Imperial College Council only in such cases where the proposed amendments were considered by the Court to seriously undermine the propriety of the constitution, the principles of natural justice or be totally unworkable.

**Court Opinion on Amendments to Paragraph 10.4 of the constitution and Regulation 3:**

This opinion is provided by the Court (under paragraph 20.6 of the constitution) on the constitutional propriety, efficacy and fairness of the proposed amendments to the constitution and regulations. It is provided purely as an opinion for the information of Council members and should not be considered binding.

**Amendment to Paragraph 10.4.g:**

12. The Court has no concerns with this amendment under its paragraph 20.6 remit.

**Amendment to Regulation 3: Names of Faculty Unions**

13. The Court has no concerns with this amendment under its paragraph 20.6 remit.

**Amendment to Regulation 3: Welfare board**

14. The amendment proposed to point 23 are not strictly necessary in that the powers already exist in the constitution for standing committees such as the Representation and Welfare Board to delegate powers to individuals under 9.2

**Delegation**

The Council and its standing committees may establish and thereafter dissolve sub-committees and delegate powers to them or individuals save:

1. that such establishment or delegation shall not affect the rights, powers or representation of any other standing or sub-committee or individual, and
2. that a record of delegated power shall reported by the Chair of the delegating committee to the Council and retained by the President.

It should be noted that amending the Constitution to emphasise a general power in a specific situation does not necessarily clarify the Constitution. For example,

specifically stating these powers for one standing committee may lead to confusion over whether other standing committees also have these powers.

15. Council will note that the power to co-opt voting members is a relatively anomalous one at such a high level of the Union, and may raise problems in achieving quorum if taken to extremes. However the Court does not consider this to be a serious impact on efficacy or propriety.